

1 STATE OF OKLAHOMA

2 1st Session of the 47th Legislature (1999)

3 COMMITTEE SUBSTITUTE
4 FOR
5 HOUSE BILL NO. 1203

By: Roberts

6
7 COMMITTEE SUBSTITUTE

8 An Act relating to the Uniform Controlled Dangerous
9 Substances Act; amending 63 O.S. 1991, Section 2-401,
10 as last amended by Section 1, Chapter 59, O.S.L. 1997
11 (63 O.S. Supp. 1998, Section 2-401), which relates to
12 prohibited acts; modifying certain distances;
13 amending Section 7, Chapter 133, O.S.L. 1997, as
14 amended by Section 1, Chapter 333, O.S.L. 1997 (21
15 O.S. Supp. 1998, Section 17), which relates to
16 sentence enhancers; modifying certain distances;
17 amending 63 O.S. 1991, Section 2-508, as last amended
18 by Section 4, Chapter 347, O.S.L. 1996 (63 O.S. Supp.
19 1998, Section 2-508), which relates to disposition of
20 seized property; authorizing the destruction of
21 certain controlled dangerous substances; providing
22 for samples to be taken and identified; requiring
23 certain notice be given; and providing an effective
24 date.

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

26 SECTION 1. AMENDATORY 63 O.S. 1991, Section 2-401, as
27 last amended by Section 1, Chapter 59, O.S.L. 1997 (63 O.S. Supp.
28 1998, Section 2-401), is amended to read as follows:

29 Section 2-401. A. Except as authorized by the Uniform
30 Controlled Dangerous Substances Act, Section 2-101 et seq. of this
31 title, it shall be unlawful for any person:

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

1 2. To create, distribute, transport with intent to distribute
2 or dispense, or possess with intent to distribute, a counterfeit
3 controlled dangerous substance; or

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

8 B. Any person who violates the provisions of this section with
9 respect to:

10 1. A substance classified in Schedule I or II which is a
11 narcotic drug or lysergic acid diethylamide (LSD), upon conviction,
12 shall be guilty of a felony and shall be sentenced to a term of
13 imprisonment for not less than five (5) years nor more than life and
14 a fine of not more than One Hundred Thousand Dollars (\$100,000.00).
15 Said sentence shall not be subject to statutory provisions for
16 suspended sentences, deferred sentences, or probation except when
17 the conviction is for a first offense;

18 2. Any other controlled dangerous substance classified in
19 Schedule I, II, III, or IV, upon conviction, shall be guilty of a
20 felony and shall be sentenced to a term of imprisonment for not less
21 than two (2) years nor more than life and a fine of not more than
22 Twenty Thousand Dollars (\$20,000.00). Said sentence shall not be
23 subject to statutory provisions for suspended sentences, deferred
24 sentences, or probation except when the conviction is for a first
25 offense;

26 3. A substance classified in Schedule V, upon conviction, shall
27 be guilty of a felony and shall be sentenced to a term of
28 imprisonment for not more than five (5) years and a fine of not more
29 than One Thousand Dollars (\$1,000.00);

30 4. An imitation controlled substance as defined by Section 2-
31 101 of this title, upon conviction, shall be guilty of a misdemeanor
32 and shall be sentenced to a term of imprisonment in the county jail

1 for a period of not more than one (1) year and a fine of not more
2 than One Thousand Dollars (\$1,000.00). A person convicted of a
3 second violation of the provisions of this paragraph shall be guilty
4 of a felony and shall be sentenced to a term of imprisonment for not
5 more than five (5) years and a fine of not more than Five Thousand
6 Dollars (\$5,000.00); or

7 5. Except when authorized by the Food and Drug Administration
8 of the United States Department of Health and Human Services, it
9 shall be unlawful for any person to manufacture, distribute, or
10 possess with intent to distribute a synthetic controlled substance.
11 Any person convicted of violating the provisions of this paragraph
12 is guilty of a felony and shall be punished by imprisonment in the
13 State Penitentiary for a term not to exceed life and a fine of not
14 more than Twenty-five Thousand Dollars (\$25,000.00). A second or
15 subsequent conviction for the violation of the provisions of this
16 paragraph is a felony punishable by imprisonment in the State
17 Penitentiary for a term not less than ten (10) years and more than
18 life and a fine of not more than One Hundred Thousand Dollars
19 (\$100,000.00).

20 C. Any person convicted of a second or subsequent felony
21 violation of the provisions of this section, except for paragraphs 4
22 and 5 of subsection B of this section or subsection E of this
23 section, shall be punished by a term of imprisonment twice that
24 otherwise authorized and by twice the fine otherwise authorized.
25 Convictions for second or subsequent violations of the provisions of
26 this section shall not be subject to statutory provisions for
27 suspended sentences, deferred sentences, or probation.

28 D. Any person who is at least eighteen (18) years of age and
29 who violates the provisions of this section by using or soliciting
30 the use of services of a person less than eighteen (18) years of age
31 to distribute, manufacture, dispense, transport with intent to
32 distribute or dispense or cultivate a controlled dangerous substance

1 or by distributing a controlled dangerous substance to a person
2 under eighteen (18) years of age is punishable by twice the fine and
3 by twice the imprisonment otherwise authorized.

4 E. Any person who violates any provision of this section by
5 transporting with intent to distribute or dispense, distributing or
6 possessing with intent to distribute a controlled dangerous
7 substance to a person, in or on, or within ~~one thousand (1,000)~~ five
8 thousand (5,000) feet of the real property comprising a public or
9 private elementary or secondary school, public vocational school,
10 public or private college or university, or other institution of
11 higher education, recreation center or public park, including state
12 parks and recreation areas, or public housing project shall be
13 punished by:

14 1. For a first offense, a term of imprisonment, or by the
15 imposition of a fine or by both, not exceeding twice that authorized
16 by the appropriate provision of this section and shall serve a
17 minimum of fifty percent (50%) of the sentence received prior to
18 becoming eligible for state correctional institution earned credits
19 toward the completion of said sentence; or

20 2. For a second or subsequent offense, a term of imprisonment
21 not exceeding three times that authorized by the appropriate
22 provision of this section and shall serve a minimum of ninety
23 percent (90%) of the sentence received prior to becoming eligible
24 for state correctional institution earned credits toward the
25 completion of said sentence.

26 F. Except as authorized by the Uniform Controlled Dangerous
27 Substances Act, it shall be unlawful for any person to manufacture
28 or attempt to manufacture any controlled dangerous substance. Any
29 person violating the provisions of this section with respect to the
30 unlawful manufacturing or attempting to unlawfully manufacture any
31 controlled dangerous substance, upon conviction, is guilty of a
32 felony and shall be punished by imprisonment in the State

1 Penitentiary for not less than twenty (20) years nor more than life
2 and by a fine of not less than Fifty Thousand Dollars (\$50,000.00).

3 Said sentence shall not be subject to statutory provisions for
4 suspended sentences, deferred sentences, or probation. A person
5 convicted of a second or subsequent violation of the provisions of
6 this subsection shall be required to serve at least ten (10) years
7 of such person's sentence before becoming eligible for parole or any
8 early release from incarceration.

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

15 G. For purposes of this section, "public housing project" means
16 any dwelling or accommodations operated as a state or federally
17 subsidized multifamily housing project by any housing authority,
18 nonprofit corporation or municipal developer or housing projects
19 created pursuant to the Oklahoma Housing Authority Act, Section 1051
20 et seq. of this title.

21 SECTION 2. AMENDATORY Section 7, Chapter 133, O.S.L.
22 1997, as amended by Section 1, Chapter 333, O.S.L. 1997 (21 O.S.
23 Supp. 1998, Section 17), is amended to read as follows:

24 Section 17. A. The sentencing ranges in the matrices shall be
25 enhanced in accordance with the following provisions based on the
26 circumstances of the commission of the offense, however the
27 enhancement provision shall not apply to conduct which is an element
28 of the offense. The following shall be offense enhancers:

29 1. If the offender committed the current offense with the use
30 of a firearm within the immediate possession and control of the
31 offender then the sentencing range shall be enhanced by two levels
32 on the sentencing matrices;

1 2. If the victim of the offense is over sixty-two (62) years,
2 under twelve (12) years, or is disabled by reason of mental or
3 physical illness to such extent that the victim lacks the ability to
4 effectively protect the victim's property or person, then the
5 sentencing range shall be enhanced by two levels on the sentencing
6 matrices;

7 3. If the property involved in a theft, embezzlement or fraud
8 crime is of great value, then the punishment for committing that
9 crime shall be enhanced. If the commission of the crime involved
10 the use of drug proceeds then the punishment for committing the
11 crime shall be enhanced by the amount of drug proceeds involved.
12 The "amount involved" is a calculation of the value of the property
13 involved in the crime, the amount of money that was stolen,
14 embezzled or obtained by fraud, or the amount of drug proceeds which
15 is utilized.

16 a. If the amount involved is greater than Two Thousand
17 Five Hundred Dollars (\$2,500.00) but less than Ten
18 Thousand Dollars (\$10,000.00) then the sentencing
19 range shall be enhanced two levels on the sentencing
20 matrices.

21 b. If the amount involved is greater than Ten Thousand
22 Dollars (\$10,000.00) but less than One Hundred
23 Thousand Dollars (\$100,000.00) then the sentencing
24 range shall be enhanced by five levels on the
25 sentencing matrices.

26 c. If the amount involved is greater than One Hundred
27 Thousand Dollars (\$100,000.00) but less than Five
28 Hundred Thousand Dollars (\$500,000.00) then the
29 sentencing range shall be enhanced by seven levels on
30 the sentencing matrices.

31 d. If the amount involved is greater than Five Hundred
32 Thousand Dollars (\$500,000.00) then the sentencing

1 range shall be enhanced to the highest level on the
2 sentencing matrices;

3 4. If in the commission of the crimes, the offender tortured or
4 maimed the victim then the sentencing range shall be enhanced two
5 levels on the sentencing matrices;

6 5. If the offender committed a Schedule N-2 or N-3 offense of
7 trafficking, distributing, dispensing, purchasing, transporting with
8 the intent to distribute, or possessing with the intent to
9 distribute a controlled dangerous substance, or a synthetic of the
10 controlled dangerous substance, in or on, or within ~~one thousand~~
11 ~~(1,000)~~ five thousand (5,000) feet of the real property comprising a
12 public or private elementary or secondary school, public or private
13 college or university, or other institution of higher education,
14 recreation center or public park, including state parks and
15 recreation areas, or public housing project, or in the presence of
16 any child under twelve (12) years of age, then the sentencing range
17 shall be enhanced by one level on the sentencing matrices; and

18 6. If the offender committed a Schedule N-2 or N-3 offense of
19 trafficking, distributing, dispensing, purchasing, transporting with
20 the intent to distribute, or possessing with the intent to
21 distribute a controlled dangerous substance, or a synthetic of the
22 controlled dangerous substance, by using or soliciting the services
23 of a person less than eighteen (18) years of age, the sentencing
24 range shall be enhanced by one level on the sentencing matrices, if
25 the offender was at least eighteen (18) years of age at the time of
26 the offense.

27 B. Every person who, having been previously convicted of an
28 offense, commits any crime after such conviction, shall be
29 punishable, upon conviction of a subsequently committed crime, by
30 the following prior record enhancers:

31 1. If the prior offense is murder in the first degree or any
32 other offense which is a Schedule A, Schedule N-1, or Schedule S-1

1 crime then the sentencing range shall be enhanced by six levels on
2 the sentencing matrices;

3 2. If the prior offense is a Schedule B, Schedule N-2, or
4 Schedule S-2 crime, then the sentencing range shall be enhanced by
5 four levels on the sentencing matrices;

6 3. If the prior offense is a Schedule C crime, then the
7 sentencing range shall be enhanced by two levels on the sentencing
8 matrices;

9 4. If the prior offense is a Schedule D, Schedule D-1, Schedule
10 N-3, Schedule N-4, or Schedule S-3 crime, then the sentencing range
11 shall be enhanced by one level on the sentencing matrices; and

12 5. If the prior offense is a Schedule D-2, Schedule E, Schedule
13 F, Schedule G, Schedule H, Schedule I-1, Schedule I-2, Schedule I-3,
14 Schedule N-5, or Schedule S-4 crime, then the sentencing range shall
15 be enhanced by one level on the sentencing matrices.

16 C. 1. If the person has been previously convicted of two or
17 more felonies which do not arise out of the same transaction,
18 occurrence, or series of events closely related in time and
19 location, the sentencing range shall be enhanced based on each prior
20 conviction, unless the prior convictions were concurrent sentences.

21 2. If the person has been previously convicted of two or more
22 felonies which the defendant proved arose out of the same
23 transaction, occurrence, or series of events closely related in time
24 and location, the enhanced range of sentence for the current offense
25 shall be determined on the schedule of punishment for the highest
26 scheduled prior offense arising from that transaction.

27 3. If the person has been previously convicted of two or more
28 felonies which did not arise out of the same transaction,
29 occurrence, or series of events closely related in time and location
30 but were concurrent sentences, the sentencing range shall be
31 enhanced based on the maximum prior conviction plus one level.

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1 D. No person shall be sentenced with a prior record enhancer
2 when a period of ten (10) years has elapsed between the date of full
3 completion of the sentence for the prior conviction and the date of
4 the commission of the offense sought to be enhanced. For the
5 purpose of this subsection, the date of full completion of the prior
6 sentence shall be computed as though said sentence had been served
7 in full, and no methods of sentence reduction shall apply towards
8 calculating this time period. Provided however, that the ten-year
9 limitation on a prior conviction shall be tolled by an intervening
10 conviction.

11 E. Unless otherwise provided by law, the enhancements provided
12 by the Oklahoma Truth in Sentencing Act are cumulative, in that all
13 applicable level increases are added together to produce the
14 applicable sentencing range.

15 F. The state is required to provide notice of specific acts or
16 prior convictions upon which the state will rely at sentencing for
17 enhancement. Unless otherwise ordered by the court, the notice
18 shall be filed by the state not less than thirty (30) days prior to
19 the trial on the merits.

20 SECTION 3. AMENDATORY 63 O.S. 1991, Section 2-508, as
21 last amended by Section 4, Chapter 347, O.S.L. 1996 (63 O.S. Supp.
22 1998, Section 2-508), is amended to read as follows:

23 Section 2-508. A. Except as otherwise provided, all property
24 described in paragraphs 1 and 2 of subsection A of Section 2-503 of
25 this title which is seized or surrendered pursuant to the provisions
26 of the Uniform Controlled Dangerous Substances Act, Section 2-101 et
27 seq. of this title, shall be destroyed. The destruction shall be
28 done by or at the direction of the Oklahoma State Bureau of
29 Investigation, who shall have the discretion prior to destruction to
30 preserve samples of the substance for testing. In any county with a
31 population of four hundred thousand (400,000) or more according to
32 the latest Federal Decennial Census, there shall be a located site,

1 approved by the Oklahoma State Bureau of Investigation, for the
2 destruction of the property. Any such property submitted to the
3 Oklahoma State Bureau of Investigation which it deems to be of use
4 for investigative training, educational, or analytical purposes may
5 be retained by the Oklahoma State Bureau of Investigation in lieu of
6 destruction.

7 B. 1. With respect to controlled dangerous substances seized
8 or surrendered pursuant to the provisions of the Uniform Controlled
9 Dangerous Substances Act, municipal police departments, sheriffs,
10 the Oklahoma Bureau of Narcotics and Dangerous Drugs Control
11 Commission, the Oklahoma Highway Patrol, and the Oklahoma State
12 Bureau of Investigation shall have the authority to destroy seized
13 controlled dangerous substances when the amount seized in a single
14 incident exceeds ten (10) pounds. The destroying agency shall:

- 15 a. photograph the seized substance with identifying case
16 numbers or other means of identification,
- 17 b. prepare a report describing the seized substance prior
18 to the destruction,
- 19 c. retain at least ten (10) pounds of the substance
20 randomly selected from the seized substance for the
21 purpose of evidence, and
- 22 d. obtain and retain samples of the substance from each
23 container, bale, brick, or other unit of substance
24 seized that is large enough for the destroying agency
25 and the defendant or suspect to have an independent
26 test performed on the substance for purposes of
27 identification.

28 2. If a defendant or suspect is known to the destroying agency,
29 the destroying agency shall give at least seven (7) days' written
30 notice to the defendant, suspect or counsel for the defendant or
31 suspect of:
32

- 1 a. the date, the time, and the place where the
2 photographing will take place and notice of the right
3 to attend the photographing,
4 b. the date, and the time where the destruction will be
5 conducted, and
6 c. the right to obtain samples of the controlled
7 dangerous substance for independent testing and use as
8 evidence.

9 3. The written notice shall also inform the defendant, suspect
10 or counsel for the defendant or suspect that the destroying agency
11 must be notified in writing within seven (7) days from receipt of
12 the notice of the intent of the suspect or defendant to obtain
13 random samples and make arrangements for the taking of samples. The
14 samples for the defendant or suspect must be taken by a person
15 licensed by the Drug Enforcement Administration. If the defendant
16 or counsel for the defendant fails to notify the destroying agency
17 in writing of an intent to obtain samples and fails to make
18 arrangements for the taking of samples, a sample taken pursuant to
19 subparagraph d of paragraph 1 of this subsection shall be made
20 available upon request of the defendant or suspect.

21 The representative samples, the photographs, the reports, and
22 the records made under this section and properly identified shall be
23 admissible in any court or administrative proceeding for any
24 purposes for which the seized substance itself would have been
25 admissible.

26 C. All other property not otherwise provided for in the Uniform
27 Controlled Dangerous Substances Act which has come into the
28 possession of the Oklahoma State Bureau of Narcotics and Dangerous
29 Drugs Control or a district attorney may be disposed of by order of
30 the district court when no longer needed in connection with any
31 litigation. If the owner of the property is unknown to the Bureau
32 or district attorney, the Bureau shall hold the property for at

1 least six (6) months prior to filing a petition for disposal with
2 the district court except for laboratory equipment which may be
3 forfeited when no longer needed in connection with litigation,
4 unless the property is perishable. The Director or district
5 attorney shall file a petition in the district court of Oklahoma
6 County or in the case of a district attorney, the petition shall be
7 filed in a county within the district attorney's jurisdiction
8 requesting the authority to:

- 9 1. Conduct a sale of the property;
- 10 2. Convert title of the property to the Oklahoma State Bureau
11 of Narcotics and Dangerous Drugs Control or to the district
12 attorney's office for donation or transfer in accordance with
13 subsection H I or J K of this section; or
- 14 3. Convert title of the property to the Oklahoma State Bureau
15 of Narcotics and Dangerous Drugs Control for the purpose of leasing
16 the property in accordance with subsection L M of this section.
17 The Director or district attorney shall attach to the petition a
18 list describing the property, including all identifying numbers and
19 marks, if any, the date the property came into the possession of the
20 Bureau or district attorney, and the name and address of the owner,
21 if known. The notice of the hearing of the petition for the sale of
22 the property, except laboratory equipment used in the processing,
23 manufacturing or compounding of controlled dangerous substances in
24 violation of the provisions of the Uniform Controlled Dangerous
25 Substances Act, shall be given to every known owner, as set forth in
26 the petition, by certified mail to the last-known address of the
27 owner at least ten (10) days prior to the date of the hearing.
28 Notice of a hearing on a petition for forfeiture or sale of
29 laboratory equipment used in the processing, manufacturing or
30 compounding of controlled dangerous substances in violation of the
31 Uniform Controlled Dangerous Substances Act shall not be required.
32 The notice shall contain a brief description of the property, and

1 the location and date of the hearing. In addition, notice of the
2 hearing shall be posted in three public places in the county, one
3 such place being the county courthouse at the regular place assigned
4 for the posting of legal notices. At the hearing, if no owner
5 appears and establishes ownership of the property, the court may
6 enter an order authorizing the Director or district attorney to
7 donate the property pursuant to subsection H I of this section, to
8 sell the property at a public auction to the highest bidder, or to
9 convert title of the property to the Oklahoma State Bureau of
10 Narcotics and Dangerous Drugs Control for the purpose of leasing or
11 transferring the property pursuant to subsection I J or J K of this
12 section after at least ten (10) days' notice has been given by
13 publication in one issue of a legal newspaper of the county. If the
14 property is offered for sale at public auction and no bid is
15 received that exceeds fifty percent (50%) of the value of the
16 property, such value to be announced prior to the sale, the Director
17 or district attorney may refuse to sell the item pursuant to any bid
18 received. The Director or district attorney shall make a return of
19 the sale and, when confirmed by the court, the order confirming the
20 sale shall vest in the purchaser title to the property so purchased.
21 The money received from the sale shall be used for the purpose of
22 purchasing controlled dangerous substances to be used as evidence in
23 narcotic cases and fees for informers, or employees and other
24 associated expenses necessary to apprehend and convict violators of
25 the laws of the State of Oklahoma regulating controlled dangerous
26 substances. These funds shall be transferred to the agency special
27 account established pursuant to Section 7.2 of Title 62 of the
28 Oklahoma Statutes or the Bureau of Narcotics Revolving Fund or in
29 the case of a district attorney, the revolving fund in that district
30 for drug education and enforcement. The Director of the Bureau of
31 Narcotics and Dangerous Drugs Control and the Director of State
32 Finance are hereby authorized and directed to promulgate in writing

1 the necessary rules and regulations requiring strict accountability
2 relative to the expenditure of the above funds. In the case of a
3 district attorney, the accountability relative to the expenditure of
4 the fund shall be according to rules already existing for county
5 revolving funds.

6 ~~C.~~ D. At the request of the Department of Public Safety, the
7 district attorney or a designee of the district attorney may conduct
8 any forfeiture proceedings as described in Section 2-503 of this
9 title on any property subject to forfeiture as described in
10 ~~subsections~~ subsection A, B, or C of Section 2-503 of this title.
11 Except as provided in subsection A of this section, all other
12 property not otherwise provided for in the Uniform Controlled
13 Dangerous Substances Act which has come into the possession of the
14 Oklahoma Department of Public Safety may be disposed of by order of
15 the district court when no longer needed in connection with any
16 litigation. If the owner of the property is unknown to the
17 Department, the Department shall hold the property for at least six
18 (6) months prior to filing a petition for disposal with the district
19 court, unless the property is perishable. The Commissioner of
20 Public Safety shall file a petition in the district court of
21 Oklahoma County requesting the authority to conduct a sale of the
22 property or to convert title of the property to the Oklahoma
23 Department of Public Safety. The Commissioner of Public Safety
24 shall attach to the petition a list describing the property,
25 including all identifying numbers and marks, if any, the date the
26 property came into the possession of the Department, and the name
27 and address of the owner, if known. The notice of the hearing of
28 the petition for the sale of the property shall be given to every
29 known owner, as set forth in the petition, by certified mail to the
30 last-known address of the owner and party in last possession if
31 applicable, at least ten (10) days prior to the date of the hearing.
32 The notice shall contain a brief description of the property, and

1 the location and date of the hearing. In addition, notice of the
2 hearing shall be posted in three public places in the county, one
3 such place being the county courthouse at the regular place assigned
4 for the posting of legal notices. At the hearing, if no owner
5 appears and establishes ownership of the property, the court may
6 enter an order authorizing the Commissioner of Public Safety to
7 donate the property pursuant to subsection ~~H~~ I of this section, to
8 sell the property to the highest bidder, or convert title of the
9 property to the Oklahoma Department of Public Safety for the purpose
10 of leasing or transferring the property pursuant to subsection ~~F~~ J
11 or ~~G~~ K of this section after at least five (5) days' notice has been
12 given by publication in one issue of a legal newspaper of the
13 county. The Commissioner of Public Safety shall make a return of
14 the sale and, when confirmed by the court, the order confirming the
15 sale shall vest in the purchaser title to the property so purchased.
16 The money received from the sale shall be deposited in the
17 Department of Public Safety Revolving Fund and shall be expended for
18 law enforcement purposes.

19 ~~D.~~ E. Except as provided in subsection A of this section, all
20 other property not otherwise provided for in the Uniform Controlled
21 Dangerous Substances Act which has come into the possession of the
22 Alcoholic Beverage Laws Enforcement Commission may be disposed of by
23 order of the district court when no longer needed in connection with
24 any litigation. If the owner of the property is unknown to the
25 Alcoholic Beverage Laws Enforcement Commission, the Commission shall
26 hold the property for at least six (6) months prior to filing a
27 petition for disposal with the district court, unless the property
28 is perishable. The Director of the Alcoholic Beverage Laws
29 Enforcement Commission shall file a petition in the district court
30 of Oklahoma County requesting the authority to conduct a sale of the
31 property or to convert title of the property to the Alcoholic
32 Beverage Laws Enforcement Commission. The Director of the Alcoholic

1 Beverage Laws Enforcement Commission shall attach to the petition a
2 list describing the property, including all identifying numbers and
3 marks, if any, the date the property came into the possession of the
4 Alcoholic Beverage Laws Enforcement Commission, and the name and
5 address of the owner, if known. The notice of the hearing of the
6 petition for the sale of the property shall be given to every known
7 owner, as set forth in the petition, by certified mail to the
8 last-known address of the owner at least ten (10) days prior to the
9 date of the hearing. The notice shall contain a brief description
10 of the property, and the location and date of the hearing. In
11 addition, notice of the hearing shall be posted in three public
12 places in the county, one such place being the county courthouse at
13 the regular place assigned for the posting of legal notices. At the
14 hearing, if no owner appears and establishes ownership of the
15 property, the court may enter an order authorizing the Director of
16 the Alcoholic Beverage Laws Enforcement Commission to donate the
17 property pursuant to subsection # I of this section or to sell the
18 property to the highest bidder after at least five (5) days' notice
19 has been given by publication in one issue of a legal newspaper of
20 the county. The Director of the Alcoholic Beverage Laws Enforcement
21 Commission shall make a return of the sale and, when confirmed by
22 the court, the order confirming the sale shall vest in the purchaser
23 title to the property so purchased. The money received from the
24 sale shall be deposited in the General Revenue Fund of the state.

25 ~~E.~~ F. Except as provided in subsection A of this section, all
26 other property not otherwise provided for in the Uniform Controlled
27 Dangerous Substances Act which has come into the possession of the
28 Oklahoma State Bureau of Investigation may be disposed of by order
29 of the district court when no longer needed in connection with any
30 litigation. If the owner of the property is unknown to the Bureau,
31 the Bureau shall hold the property for at least six (6) months prior
32 to filing a petition for disposal with the district court, unless

1 the property is perishable. The Director of the Oklahoma State
2 Bureau of Investigation shall file a petition in the district court
3 of Oklahoma County requesting the authority to conduct a sale of the
4 property or to convert title of the property to the Oklahoma State
5 Bureau of Investigation. The Director of the Oklahoma State Bureau
6 of Investigation shall attach to the petition a list describing the
7 property, including all identifying numbers and marks, if any, the
8 date the property came into the possession of the Bureau, and the
9 name and address of the owner, if known. The notice of the hearing
10 of the petition for the sale of the property shall be given to every
11 known owner, as set forth in the petition, by certified mail to the
12 last-known address of the owner and party in last possession if
13 applicable, at least ten (10) days prior to the date of the hearing.
14 The notice shall contain a brief description of the property, and
15 the location and date of the hearing. In addition, notice of the
16 hearing shall be posted in three public places in the county, one
17 such place being the county courthouse at the regular place assigned
18 for the posting of legal notices. At the hearing, if no owner
19 appears and establishes ownership of the property, the court may
20 enter an order authorizing the Director of the Oklahoma State Bureau
21 of Investigation to donate the property pursuant to subsection H I
22 of this section, to sell the property to the highest bidder, or
23 convert title of the property to the Oklahoma State Bureau of
24 Investigation for the purpose of leasing or transferring the
25 property pursuant to subsection F J or G K of this section after at
26 least five (5) days' notice has been given by publication in one
27 issue of a legal newspaper of the county. The Director of the
28 Oklahoma State Bureau of Investigation shall make a return of the
29 sale and, when confirmed by the court, the order confirming the sale
30 shall vest in the purchaser title to the property so purchased. The
31 money received from the sale shall be deposited in the OSBI
32 Revolving Fund and shall be expended for law enforcement purposes.

1 ~~F.~~ G. Except as provided in subsection A of this section, all
2 other property not otherwise provided for in the Uniform Controlled
3 Dangerous Substances Act which has come into the possession of the
4 Oklahoma Department of Corrections may be disposed of by order of
5 the district court when no longer needed in connection with any
6 litigation. If the owner of the property is unknown to the
7 Department, the Department shall hold the property for at least six
8 (6) months prior to filing a petition for disposal with the district
9 court, unless the property is perishable. The Director of the
10 Oklahoma Department of Corrections shall file a petition in the
11 district court of the county of seizure requesting the authority to
12 conduct a sale of the property or to convert title to the property
13 to the Oklahoma Department of Corrections. The Director of the
14 Oklahoma Department of Corrections shall attach to the petition a
15 list describing the property, including all identifying numbers and
16 marks, if any, the date the property came into possession of the
17 Department and the name and address of the owner, if known. The
18 notice of the hearing of the petition for the sale of the property
19 shall be given to every known owner, as set forth in the petition,
20 by certified mail to the last-known address of the owner and party
21 in last possession if applicable, at least ten (10) days prior to
22 the date of the hearing. The notice shall contain a brief
23 description of the property and the location and date of the
24 hearing. In addition, notice of the hearing shall be posted in
25 three public places in the county, one such place being the county
26 courthouse at the regular place assigned for the posting of legal
27 notices. At the hearing, if no owner appears and establishes
28 ownership of the property, the court may enter an order authorizing
29 the Director of the Oklahoma Department of Corrections to donate the
30 property pursuant to subsection ~~#~~ I of this section, to sell the
31 property to the highest bidder or convert title of the property to
32 the Oklahoma Department of Corrections after at least five (5) days'

1 notice has been given by publication in one issue of a legal
2 newspaper of the county. The Director of the Oklahoma Department of
3 Corrections shall make a return of the sale and when confirmed by
4 the court, the order confirming the sale shall vest in the purchaser
5 title to the property so purchased. Twenty-five percent (25%) of
6 the money received from the sale shall be disbursed to a revolving
7 fund in the office of the county treasurer of the county wherein the
8 property was seized, said fund to be used as a revolving fund solely
9 for enforcement of controlled dangerous substances laws, drug abuse
10 prevention and drug abuse education. The remaining seventy-five
11 percent (75%) shall be deposited in the Department of Corrections
12 Revolving Fund to be expended for equipment for probation and parole
13 officers and correctional officers.

14 ~~G.~~ H. Except as provided in subsection A of this section, all
15 other property not otherwise provided for in the Uniform Controlled
16 Dangerous Substances Act which has come into the possession of the
17 Office of the Attorney General may be disposed of by order of the
18 district court when no longer needed in connection with any
19 litigation. If the owner of the property is unknown to the Office,
20 the Office shall hold the property for at least six (6) months prior
21 to filing a petition for disposal with the district court, unless
22 the property is perishable. The Office of the Attorney General
23 shall file a petition in the district court of Oklahoma County
24 requesting the authority to conduct a sale of the property or to
25 convert title of the property to the Office of the Attorney General.
26 The Office of the Attorney General shall attach to the petition a
27 list describing the property, including all identifying numbers and
28 marks, if any, the date the property came into the possession of the
29 Office, and the name and address of the owner, if known. The notice
30 of the hearing of the petition for the sale of the property shall be
31 given to every known owner, as set forth in the petition, by
32 certified mail to the last-known address of the owner and party in

1 last possession, if applicable, at least ten (10) days prior to the
2 date of the hearing. The notice shall contain a brief description
3 of the property and the location and date of the hearing. In
4 addition, notice of the hearing shall be posted in three public
5 places in the county, one such place being the county courthouse at
6 the regular place assigned for the posting of legal notices. At the
7 hearing, if no owner appears and establishes ownership of the
8 property, the court may enter an order authorizing the Attorney
9 General to donate the property pursuant to subsection ~~H~~ I of this
10 section, to sell the property to the highest bidder, or convert
11 title of the property to the Office of the Attorney General for the
12 purpose of leasing or transferring the property pursuant to
13 subsection ~~F~~ J or ~~G~~ K of this section after at least five (5) days'
14 notice has been given by publication in one issue of a legal
15 newspaper of the county. The Attorney General shall make a return
16 of the sale and, when confirmed by the court, the order confirming
17 the sale shall vest in the purchaser title to the property so
18 purchased. The money received from the sale shall be deposited in
19 the Attorney General Law Enforcement Revolving Fund and shall be
20 expended for law enforcement purposes. The Office of the Attorney
21 General may enter into agreements with municipal, county or state
22 agencies to return to such an agency a percentage of proceeds of the
23 sale of any property seized by the agency and forfeited under the
24 provisions of this section.

25 ~~H~~ I. Any property, including but not limited to uncontaminated
26 laboratory equipment used in the processing, manufacturing or
27 compounding of controlled dangerous substances in violation of the
28 provisions of the Uniform Controlled Dangerous Substances Act, upon
29 a court order, may be donated for classroom or laboratory use by the
30 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,
31 Oklahoma Department of Public Safety, district attorney, the
32 Alcoholic Beverage Laws Enforcement Commission, the Oklahoma

1 Department of Corrections, or the Office of the Attorney General to
2 any public secondary school or vocational-technical school in this
3 state or any institution of higher education within The Oklahoma
4 State System of Higher Education.

5 ~~I.~~ J. Any vehicle or firearm which has come into the possession
6 and title vested in the Oklahoma State Bureau of Narcotics and
7 Dangerous Drugs Control, the Oklahoma Department of Public Safety,
8 the Oklahoma State Bureau of Investigation, or the Office of the
9 Attorney General, may be offered for lease to any sheriff's office
10 or police department in this state on an annual basis to assist with
11 the enforcement of the provisions of the Uniform Controlled
12 Dangerous Substances Act. Each agency shall promulgate rules,
13 regulations and procedures for leasing vehicles and firearms. No
14 fully automatic weapons will be subject to the leasing agreement.
15 All firearms leased may be utilized only by C.L.E.E.T. certified
16 officers who have received training in the type and class of weapon
17 leased. Every lessee shall be required to submit an annual report
18 to the leasing agency stating the condition of all leased property.
19 A lease agreement may be renewed annually at the option of the
20 leasing agency. Upon termination of a lease agreement, the property
21 shall be returned to the leasing agency for sale or other
22 disposition. All funds derived from lease agreements or other
23 disposition of property no longer useful to law enforcement shall be
24 deposited in the agency's revolving fund and shall be expended for
25 law enforcement purposes.

26 ~~J.~~ K. Before disposing of any property pursuant to subsections
27 ~~B~~ C through ~~E~~ F of this section, the Oklahoma State Bureau of
28 Narcotics and Dangerous Drugs Control, the Department of Public
29 Safety, the Alcoholic Beverage Laws Enforcement Commission, the
30 Oklahoma State Bureau of Investigation, the Office of the Attorney
31 General, or a district attorney shall notify the Department of
32 Corrections and the State Department of Vocational and Technical

1 Education of the identity of any such property in their possession.
2 The Department of Corrections and the State Department of Vocational
3 and Technical Education must respond within ten (10) days of such
4 notification, as to whether or not such property could be used in
5 the operations or training programs of either agency. Upon receipt
6 of the response, the agency or district attorney that issued the
7 notification shall negotiate as to which agency will be entitled to
8 the use of the property, the purpose of the use and the duration of
9 such use. Upon return of the property, the property may be disposed
10 of as otherwise provided in this section. The agencies and any
11 district attorney that are parties to any transfer of property
12 pursuant to this subsection shall enter into written agreements to
13 carry out any such transfer of property. Any such agreement may
14 also provide for the granting of title to any property being
15 transferred as the parties deem appropriate.

16 SECTION 4. This act shall become effective November 1, 1999.

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18 47-1-6251 LAC 6/11/15

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