

(1ST EXTRAORDINARY SESSION  
OF THE 47TH LEGISLATURE)  
ENROLLED SENATE  
BILL NO. 3X

By: Taylor and Capps of the  
Senate

and

Benson, Beutler, Bonny and  
Hilliard of the House

An Act relating to public finance; authorizing Department of Corrections to negotiate for lease of real property; authorizing Department to enter into lease upon certain conditions; authorizing Department to contract for medical care of inmates; specifying certain contract provisions; authorizing consideration of certain contract provisions; authorizing Department to operate certain on-site primary medical treatment programs; authorizing Department to contract with a health care administrative services firm; specifying certain duties to be included in contract; providing for selection of firm; requiring the Department to provide staffing for certain committees; specifying certain duties of health care administrative services firm; requiring certain reports; authorizing Department to maintain certain procedures; creating the Correctional Health Care Services Oversight Board; providing for membership; providing for duties and responsibilities of Board; providing for travel expenses; requiring certain contracts with private prison operators to contain certain provisions; directing closure of certain medical facility; providing certain benefits to affected employees; making an appropriation to the Department of Corrections; stating purpose; amending 43A O.S. 1991, Section 3-701, as amended by Section 6, Chapter 174, O.S.L. 1997 (43A O.S. Supp. 1999, Section 3-701), which relates to hospital services for inmates of correctional institutions; limiting length of time certain requirements shall be imposed on certain agencies; amending Section 3, Chapter 330, O.S.L. 1993, as last amended by Section 1, Chapter 174, O.S.L. 1997 and Section 5, Chapter 263, O.S.L. 1995, as amended by Section 7, Chapter 321, O.S.L. 1996 (63 O.S. Supp. 1999, Sections 3203 and 3226), which relate to the purposes of the University Hospitals Authority Act and the powers and duties of the University Hospitals Trust and the University Hospitals Authority; limiting time period for which University Hospitals Authority is required to provide certain medical care; providing exception to requirements of certain lease; amending Section 1,

Chapter 320, O.S.L. 1995, as amended by Section 2, Chapter 309, O.S.L. 1996, Section 2, Chapter 320, O.S.L. 1995, Section 3, Chapter 320, O.S.L. 1995, as amended by Section 3, Chapter 309, O.S.L. 1996 and Section 1, Chapter 309, O.S.L. 1996, as amended by Section 2, Chapter 106, O.S.L. 1999 (47 O.S. Supp. 1999, Sections 6-106.1, 6-106.2, 6-106.3 and 6-106.4), which relate to the Drunk Driving Prevention Act; modifying citations; expanding purpose of act; requiring specified amounts of community service or treatment for conviction of certain crimes by persons under twenty-one years of age; defining terms; amending 47 O.S. 1991, Sections 6-205, as last amended by Section 1, Chapter 293, O.S.L. 1998, 6-205.1, as last amended by Section 3, Chapter 106, O.S.L. 1999 and 6-211, as last amended by Section 3, Chapter 139, O.S.L. 1999 (47 O.S. Supp. 1999, Sections 6-205, 6-205.1 and 6-211), which relate to cancellation, suspension and revocation of driver licenses; requiring revocation of driver license under certain circumstances; prohibiting modification of certain revocations; allowing for modification after certain time period; amending 47 O.S. 1991, Section 11-902, as last amended by Section 3 of Enrolled House Bill No. 1920 of the 2nd Session of the 47th Oklahoma Legislature, which relates to driving under the influence; authorizing treatment and aftercare for certain offenders; requiring defendant to pay certain expenses; establishing crime of aggravated driving under the influence; specifying punishment; requiring community service or inpatient rehabilitation if conviction does not result in minimum amount of incarceration; requiring substance abuse assessment under certain circumstances; requiring installation of interlock device under certain circumstances; authorizing modifications under certain circumstances; authorizing electronic monitoring of persons convicted of felony offenses; amending 47 O.S. 1991, Section 756, as last amended by Section 10, Chapter 309, O.S.L. 1996 (47 O.S. Supp. 1999, Section 756), which relates to hearings for driver license revocations; modifying reference; providing monthly pension benefits for certain beneficiaries; providing date; providing benefit calculations; defining eligible beneficiaries; providing exception; providing election for certain beneficiaries; requiring payments be made prospectively; providing commencement date for benefits; authorizing promulgation of rules; amending 74 O.S. 1991, Section 19, as last amended by Section 1 of Enrolled House Bill No. 1002 of the 2nd Session of the 47th Oklahoma Legislature and Section 2 of Enrolled House Bill No. 1002 of the 2nd Session of the 47th Oklahoma Legislature, which relate to the Office of the Attorney General and the Tobacco Settlement Fund; modifying provisions applicable to deposit of certain monies; modifying monies deposited

to Tobacco Settlement Fund; transferring certain sum to Tobacco Settlement Endowment Trust Fund; amending Section 81 of Enrolled Senate Bill No. 965 of the 2nd Session of the 47th Oklahoma Legislature, which relates to an appropriation to the Department of Transportation; modifying year for which certain appropriation made; making appropriation to The 1921 Tulsa Race Riot Commission Revolving Fund; stating purpose; amending Section 56 of Enrolled House Bill No. 2260 of the 2nd Session of the 47th Oklahoma Legislature, which relates to an appropriation to the Legislative Service Bureau; modifying appropriation amount; appropriating certain amount to Legislative Service Bureau; stating purpose; amending Section 20 of Enrolled House Bill No. 2260 of the 2nd Session of the 47th Oklahoma Legislature, as amended by Section 1 of Enrolled House Bill No. 2249 of the 2nd Session of the 47th Oklahoma Legislature, which relates to the Oklahoma State Regents for Higher Education; modifying appropriation amount; amending Section 27 of Enrolled House Bill No. 2260 of the 2nd Session of the 47th Oklahoma Legislature, which relates to the Oklahoma State Regents for Higher Education; modifying appropriation amount; stating legislative intent regarding certain provisions relating to the Oklahoma Health Care Authority; specifying certain requirements for budget work program; requiring certain reports; repealing 47 O.S. 1991, Section 11-902, as last amended by Section 1 of Enrolled Senate Bill No. 1443 of the 2nd Session of the 47th Oklahoma Legislature, which relates to driving under the influence of alcohol; providing for codification; providing for noncodification; providing for recodification; providing effective dates; providing a conditional 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 621 of Title 57, unless there is created a duplication in numbering, reads as follows:

The Department of Corrections and the University Hospitals Authority are hereby authorized to negotiate for a lease renewable annually for not less than ten (10) years, subject to annual appropriations, for the use and occupation of so much of the O'Donoghue Rehabilitation Institute as is necessary for the provision of health care services pursuant to a contract entered into pursuant to Section 2 of this act. The Department is authorized to enter into such lease subject to the ability of the Department to complete the contractual arrangements set forth in Section 2 of this act.

SECTION 2. 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. The Department of Corrections is authorized to negotiate and enter into contracts for the provision of specialty medical care at the O'Donoghue Rehabilitation Institute for all inmates for whom the Department of Corrections has statutory responsibility for medical care. Such contracts shall not be subject to the provisions of the Central Purchasing Act and shall incorporate the following provisions:

1. The contracts shall apply to all inmates for whom the Department of Corrections has statutory responsibility for medical care, whether such inmates are housed in a facility operated by the Department, in a county jail or in a facility operated by a contractor, unless the Department has a contractual agreement for a contractor to furnish medical care for inmates housed in a facility operated by such private prison operator;

2. The contract will provide for specific health care services to be provided at the O'Donoghue Rehabilitation Institute, with the operational responsibility of the facility, other than security and transportation of inmates, to be assumed by the University Hospitals Authority, pursuant to the Joint Operating Agreement entered into between the Authority and HCA Health Services of Oklahoma, Inc. on February 5, 1998. The Department of Corrections, contractors or county sheriff shall be responsible for all transportation and security of inmates receiving medical treatment under the contract;

3. The contract will provide that all persons employed in the medical-surgical unit of the Griffin Memorial Hospital in Norman, Oklahoma, on the contract commencement date, be offered employment at the O'Donoghue Rehabilitation Institute subject to the same terms, conditions and benefits provided to former employees of the University Hospitals Authority under the Joint Operating Agreement;

4. The contract will provide that the provision of medical care shall begin not later than July 1, 2002;

5. The Department of Corrections shall contract with a physicians medical group for the provision of specialty physician services. Payment for such services may be on a capitated or other basis as provided in the contract. This paragraph shall not prohibit the Department from entering into other contracts for the provision of specialty physician services beyond the scope of the physicians medical group;

6. The contract will require the Authority, under the Joint Operating Agreement, to provide for the operation of a medical facility at the O'Donoghue Rehabilitation Institute; and

7. The contracts shall provide for a system of resolving disputes raised by providers performing services under the contracts.

B. The Department of Corrections and the University Hospitals Authority shall consider requiring the following provisions for the payment of medical care when negotiating the contract, but may make other payment provisions if it is determined to be in the best interests of the state to do so:

1. Payment of a flat facility fee for each clinic and outpatient visit;
2. Payment for diagnostic services and ambulatory surgery to be made on a fee-for-service basis at preestablished rates;
3. Payment for each admission to be made either on a case-rate basis varying by diagnosis-related group or on a per diem basis; and
4. Infirmary or step-down services will be reimbursed either within the case rate with provisions for additional outlier payments or on a per diem basis.

C. The Department shall consider requiring that all nonemergent specialty physician services and inpatient care will be provided by the vendor and the physicians medical group with the following exceptions:

1. Care needed on an urgent routine basis when the vendor or the physicians medical group cannot provide a timely response; and
2. Care provided by community providers under contract with the Department of Corrections to provide care for prisoners in designated facilities.

SECTION 3. 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:

The Department of Corrections is authorized to operate on-site primary medical treatment programs using employed or contracted providers at facilities operated by the Department.

SECTION 4. 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. The Department of Corrections is authorized to enter into a contract with a health care administrative services firm no later than October 1, 2000, for the provision of expertise and technical assistance in the following areas:

1. Development of the contracts required by Section 2 of this act;
2. Review and refinement of system-wide medical and utilization management programs, including review of existing policies, procedures and protocols for use in providing medical care to Oklahoma inmates for whom the Department of Corrections has statutory responsibility to provide medical care;

3. Review of the process for establishing payment rates for medical services other than direct care;

4. Review of existing formulary and managed pharmaceutical programs for correctional facilities in this state;

5. Review of the process for contracting for competitively priced reference laboratory services, medical supplies and pharmaceuticals; and

6. Development of the use of telemedicine as a means of assisting the Department of Corrections in fulfilling its statutory responsibility for the provision of medical care.

B. The health care administrative services firm shall be selected through a Request for Proposal developed by the Department of Corrections in consultation with the Correctional Health Care Services Oversight Board created in Section 6 of this act. No contract with such firm shall become effective until reviewed by the Correctional Health Care Services Oversight Board and approved by the State Board of Corrections.

C. The Department of Corrections shall provide staffing for any committees established pursuant to Section 5 of this act, and the health care administrative services firm shall assist such committees in the collection, analysis and reporting of information and making recommendations for changes.

D. The Department of Corrections shall report at least quarterly to the Correctional Health Care Services Oversight Board on the provision of health care services to inmates. Such reports shall include all recommendations made by the health care services administrative firm and shall provide information to the Oversight Board on the issues encountered and results achieved by the procedures authorized in Section 5 of this act.

SECTION 5. 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:

The Department of Corrections will maintain within its Medical Services Division procedures for quality management, utilization management and a grievance appeals process for inmates. The Department will seek input from the health care administrative services firm as to the advisability of establishing committees to implement the procedures authorized in this section.

SECTION 6. 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. There is hereby created until July 1, 2003, in accordance with the provisions of the Oklahoma Sunset Law, the Correctional Health Care Services Oversight Board. The members of the Board shall be:

1. The Chief Medical Officer of the Department of Corrections;

2. The Director of the University Hospitals Authority;
3. The Dean of the University of Oklahoma Medical School;
4. A person appointed by the Governor;
5. A person who is not a state officer or a state employee and who is a recognized expert in the provision of health care services appointed by the President Pro Tempore of the Senate;
6. A person who is not a state officer or a state employee and who is a recognized expert in the provision of health care services appointed by the Speaker of the House of Representatives;
7. A person who is not a state officer or a state employee and who is a recognized expert in the provision of health care services appointed by the Governor;
8. A legislator appointed by the President Pro Tempore of the Senate; and
9. A legislator appointed by the Speaker of the House of Representatives.

B. Each member of the Correctional Health Care Services Oversight Board initially appointed shall make the member's appointment known to the Director of the Department of Corrections. Any vacancies in the appointive membership of the Board shall be filled in the same manner as the original appointment. The Chief Medical Officer of the Department of Corrections shall be the chair of the Board and the members shall elect a vice-chair from its members.

C. A majority of the members of the Board shall constitute a quorum and a majority present may act for the Board.

D. The Department of Corrections shall provide staff assistance to the Board in the performance of its duties.

E. The Board shall have the duty and responsibility of monitoring the provision of health care services to Oklahoma inmates sentenced to the custody of the Department of Corrections in correctional facilities in this state and providing advice and recommendations to the Legislature and the Department of Corrections.

F. The Board shall review the Department of Corrections Medical Service Division's quality management process and any proposed amendments to the process. The Board shall monitor implementation of the process and make recommendations to the Director of the Department of Corrections regarding the process and its implementation.

G. The Board shall have the authority to review the appeals process and any issues arising from the appeals process which might

result in litigation. Any such review shall be conducted in executive session.

H. Members of the Board shall receive no salary; however, all members of the Board shall be reimbursed for all actual and necessary travel expenses as follows:

1. Board members employed by the state who are not members of the Legislature shall be reimbursed by their respective employing agency pursuant to the State Travel Reimbursement Act;

2. Board members who are also members of the Legislature shall be reimbursed pursuant to the provisions of Section 456 of Title 74 of the Oklahoma Statutes; and

3. Any other Board member shall receive reimbursement from the member's appointing authority.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 561.3 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. Every contract entered into on and after the effective date of this act, between the Department of Corrections and a private prison operator which provides for the housing of inmates under the custody or supervision of the Department of Corrections, shall require that the private prison operator furnish medical care for such inmates as part of the contract price. Such care shall meet standards prepared and established by the Board of Corrections for inmate medical care.

B. A private prison operator which has contracted with the Department of Corrections to house inmates under the custody or control of the Department and which is required by such contract to furnish medical care for such inmates may contract with the Department of Corrections for medical care to be provided pursuant to the contract provided for in Section 2 of this act.

SECTION 8. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The Department of Mental Health and Substance Abuse Services is directed to cease all operations of the medical-surgical unit at the Griffin Memorial Hospital on commencement of the O'Donoghue Rehabilitation Institute services contract as provided by this act. All functions of such unit shall be assumed by the contract provided for in Section 2 of this act. All affected employees shall be entitled to the benefits provided by paragraph 3 of subsection A of Section 2 of this act in addition to all other benefits and privileges provided by law.

SECTION 9. There is hereby appropriated to the Department of Corrections from any monies not otherwise appropriated from the General Revenue Fund of the State Treasury for the fiscal year ending June 30, 2001, the sum of Seven Hundred Thousand Dollars (\$700,000.00) or so much thereof as may be necessary to perform architectural and engineering work at the O'Donoghue Rehabilitation

Institute and to enter into a contract with a health care administrative services firm as provided in Section 4 of this act.

SECTION 10. AMENDATORY 43A O.S. 1991, Section 3-701, as amended by Section 6, Chapter 174, O.S.L. 1997 (43A O.S. Supp. 1999, Section 3-701), is amended to read as follows:

Section 3-701. ~~It~~ Until commencement of the O'Donoghue Rehabilitation Institute services contract, it shall be the responsibility of the Department of Mental Health and Substance Abuse Services, within facilities and professional capabilities, to provide at Griffin Memorial Hospital, Norman, Oklahoma, such medical and surgical inpatient and outpatient care as may be required by inmates from the several correctional institutions that are properly referred to the hospital by the Department of Corrections. The Department of Mental Health and Substance Abuse Services may refer to the University Hospitals, and the latter shall accept those correctional inmate patients who are beyond the facilities' and professional capability of Griffin Memorial Hospital. The Department of Corrections shall be responsible for transporting to, from, and between hospitals and for providing such physical security of correctional inmate patients as may be required beyond that security normal to hospital operation. The Department of Corrections shall immediately remove from the hospital those inmate patients as they are discharged by the hospital. The hospital services provided by Griffin Memorial Hospital and the University Hospitals shall be without cost to the Department of Corrections.

SECTION 11. AMENDATORY Section 3, Chapter 330, O.S.L. 1993, as last amended by Section 1, Chapter 174, O.S.L. 1997 (63 O.S. Supp. 1999, Section 3203), is amended to read as follows:

Section 3203. A. The purposes of the University Hospitals Authority Act are to provide for an effective and efficient administration, to ensure a dependable source of funding, and to effectuate the mission and purposes of the University Hospitals Authority. The mission and purposes of the University Hospitals are to serve as general hospitals, to serve as teaching and training facilities for students enrolled at the University of Oklahoma, to serve as a site for conducting medical and biomedical research by faculty members of the University of Oklahoma Health Sciences Center and to provide care for the medically indigent. The University Hospitals shall maintain a close affiliation with the University of Oklahoma Health Sciences Center and shall coordinate their operations and activities in a cooperative manner. In addition, the University Hospitals Authority shall provide indigent and nonindigent patient care, as more fully described herein.

B. The Legislature finds that the needs of the citizens of this state and the needs of the University of Oklahoma Health Sciences Center will be best served if the University Hospitals are operated by a separate Authority charged with the mission of operating or leasing the operations of the teaching hospitals for the benefit of the colleges of the University of Oklahoma Health Sciences Center and providing care for the medically indigent.

C. The University Hospitals Authority, by receiving the assets and operating obligations, shall ensure that the costs of delivering medically indigent care continue to be subsidized in excess of the state reimbursement for the medically indigent, consistent with the teaching hospitals' past policy and performance and that of the University of Oklahoma Health Sciences Center. The Authority shall make or cause to be made every reasonable effort to continue the hospitals' historic commitment to the provision of uncompensated care and that the allocation and investment of resources shall be made with a view to maximizing the hospitals' long-term ability to provide uncompensated care, except as may be modified by changes in federal or state law. The University Hospitals Authority shall ensure that indigent care provided by the Oklahoma Medical Center during a fiscal year shall be equal to or exceed one hundred twenty percent (120%) of the annual appropriation to the University Hospitals Authority for indigent care. The level of indigent care provided shall be based on Medicare costs as determined by the most recent report filed by any operating entity of the University Hospitals with the federal Health Care Finance Administration.

D. As used in this section, "indigent care" means charity care, Medicaid contractual allowances, all debt arising from accounts for which there is no third-party coverage including services provided to the Department of Corrections, until commencement of the O'Donoghue Rehabilitation Institute services contract, pursuant to Section 3-701 of Title 43A of the Oklahoma Statutes and Department of Mental Health and Substance Abuse Services as otherwise required by law. For purposes of this subsection, third-party coverage shall not include Medicaid coverage.

E. The Board of Regents of the University of Oklahoma shall retain full power to govern the personnel, curriculum and facilities of the University of Oklahoma.

SECTION 12. AMENDATORY Section 5, Chapter 263, O.S.L. 1995, as amended by Section 7, Chapter 321, O.S.L. 1996 (63 O.S. Supp. 1999, Section 3226), is amended to read as follows:

Section 3226. A. Contingent upon the creation of the University Hospitals Trust as provided in Section ~~3~~ 3224 of this ~~act~~ title, the University Hospitals Authority is hereby authorized to lease, for a term of not more than fifty (50) years, renewable at the option of the Authority, all real property known as the University Hospitals and any other sites under the control of the Authority to the University Hospitals Trust. Any lease agreement made pursuant to this section shall be contingent upon:

1. Prior review by the Attorney General of any contractual agreement between the University Hospitals Trust and any entity authorized to transact business in the State of Oklahoma regarding the lease and operations of the University Hospitals. The Attorney General shall disapprove the agreement if it is determined that provisions of the agreement are not consistent with state law; and

2. The execution of an operating and lease agreement between the University Hospitals Trust and any entity authorized to transact business in the State of Oklahoma.

B. Concurrent with the execution of a lease of real property from the University Hospitals Authority to the University Hospitals Trust as provided in subsection A of this section, the Authority is authorized to transfer title to and possession of all tangible and intangible personal property under its control to the Trust. In any contractual agreement regarding the lease and operations of the University Hospitals between the University Hospitals Trust and any entity authorized to transact business in the State of Oklahoma, the Trust is authorized to sell or otherwise convey to such entity all tangible and intangible personal property the Trust may receive from the University Hospitals Authority. Any contract or other agreement which purports to exercise the powers authorized by this subsection is subject to review by the Contingency Review Board, as specified in Section 3225 of this title.

C. If a contracting entity fails to take possession of the leased premises or abandons or surrenders possession of the leased premises, other than to a state agency, at any time during the term of the lease between the University Hospitals Trust and the contracting entity, the interest in the real property leased to the University Hospitals Trust by the University Hospitals Authority shall revert to and be the sole and exclusive property of the University Hospitals Authority.

D. Contingent upon the execution of an agreement between the University Hospitals Trust and any entity authorized to transact business in the State of Oklahoma, as specified in subsection A of this section, the University Hospitals Authority is authorized to enter into an agreement for such entity to provide indigent care services and perform other related duties imposed upon the University Hospitals Authority by law. Such an agreement between the University Hospitals Authority and such entity is exempt from the requirements of the Oklahoma Central Purchasing Act and any rules adopted by the University Hospitals Authority pursuant to the Administrative Procedures Act.

SECTION 13. AMENDATORY Section 1, Chapter 320, O.S.L. 1995, as amended by Section 2, Chapter 309, O.S.L. 1996 (47 O.S. Supp. 1999, Section 6-106.1), is amended to read as follows:

Section 6-106.1 ~~Sections 6-106.1 through 6-106.3 of this title and Section 13 through 16~~ of this act shall be known and may be cited as the "Drunk Driving Prevention Act".

SECTION 14. AMENDATORY Section 2, Chapter 320, O.S.L. 1995 (47 O.S. Supp. 1999, Section 6-106.2), is amended to read as follows:

Section 6-106.2 The purpose of this act is to reduce the incidence of ~~death, injury and property damage in this state by those persons who drive or are in actual physical control of a motor vehicle~~ while under the influence of alcohol or other intoxicating substances.

SECTION 15. AMENDATORY Section 3, Chapter 320, O.S.L. 1995, as amended by Section 3, Chapter 309, O.S.L. 1996 (47 O.S. Supp. 1999, Section 6-106.3), is amended to read as follows:

Section 6-106.3 A. The State Department of Education shall ~~within one (1) year after the effective date of this act,~~ develop and administer appropriate driver education programs to be conducted in all of the schools of this state to increase awareness of the dangers of drinking and driving.

B. 1. In order to provide education and instruction to all applicants for an original Oklahoma driver license, the Oklahoma Driver's Manual, published and distributed by the Department of Public Safety pursuant to Section 2-114 of this title, shall contain accurate information on:

- a. the hazards of driving while under the influence of alcohol or other intoxicating substances, and
- b. the legal and financial consequences resulting from violations of this state's laws prohibiting the operation or actual physical control of a motor vehicle while under the influence of alcohol or other intoxicating substances.

2. In addition to the subjects set forth in Section 6-110 of this title, the written examination administered by the Department of Public Safety to every applicant for an original Oklahoma driver license shall contain questions on the subjects listed in this subsection.

SECTION 16. AMENDATORY Section 1, Chapter 309, O.S.L. 1996, as amended by Section 2, Chapter 106, O.S.L. 1999 (47 O.S. Supp. 1999, Section 6-106.4), is amended to read as follows:

Section 6-106.4 A. It is unlawful, and punishable as provided in subsection B of this section, for any person under twenty-one (21) years of age to drive, operate, or be in actual physical control of a motor vehicle within this state who:

1. Has any measurable quantity of alcohol in the person's blood or breath at the time of a test administered within two (2) hours after an arrest of the person;
2. Exhibits evidence of being under the influence of any other intoxicating substance as shown by analysis of a specimen of the person's blood, breath, saliva, or urine in accordance with the provisions of Sections 752 and 759 of this title; or
3. Exhibits evidence of the combined influence of alcohol and any other intoxicating substance.

B. ~~1.~~ Any person under twenty-one (21) years of age who violates any provision of this section shall be subject to the seizure of the driver license of that person at the time of arrest or detention and the person, upon conviction, shall be guilty of

operating or being in actual physical control of a motor vehicle while under the influence while under age and shall be punished:

~~a. for~~

1. For a first offense, by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or by assignment to and completion of twenty (20) hours of community service, or by requiring the person to attend and complete a treatment program, or by any combination of fine, community service, or treatment,~~or;~~

~~b. upon~~

2. Upon a second ~~or subsequent~~ conviction, ~~shall be punished~~ by:

a. assignment to and completion of not less than two hundred forty (240) hours of community service, and

b. the requirement, after the conclusion of the mandatory revocation period, to install an ignition interlock device for a period of not less than thirty (30) days, as ordered by the court, on every vehicle owned by the person and on the vehicle regularly operated by the person, if such vehicle is not owned by the person, pursuant to Section 754.1 or 755 of this title. The installation of an ignition interlock device, as required by this subparagraph, shall not be construed to authorize the person to drive unless the person is otherwise eligible to drive.

In addition, a second conviction may be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00), ~~or by completion of forty (40) hours of community service,~~ or by requiring the person to attend and complete a treatment program, as recommended by the assessment required pursuant to subparagraph c of paragraph 2 of subsection D of this section, or by any combination of fine, community service, or treatment both; or

3. Upon a third or subsequent conviction, by:

a. assignment to and completion of not less than four hundred eighty (480) hours of community service, and

b. the requirement, after the conclusion of the mandatory revocation period, to install an ignition interlock device for a period of not less than thirty (30) days, as ordered by the court, on every vehicle owned by the person and on the vehicle regularly operated by the person, if such vehicle is not owned by the person, pursuant to Section 754.1 or 755 of this title. The installation of an ignition interlock device, as required by this subparagraph, shall not be construed to authorize the person to drive unless the person is otherwise eligible to drive.

In addition, a third or subsequent conviction may be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than Two Thousand Dollars (\$2,000.00), or by requiring the person to attend and complete a treatment program, as recommended by the assessment required pursuant to subparagraph c of paragraph 2 of subsection D of this section, or by both.

~~2.~~ C. The court may assess additional community service hours in lieu of any fine specified in this section.

~~3.~~ D. In addition to any penalty or condition imposed pursuant to the provisions of this section, the person ~~may~~ shall be subject to:

1. Upon a first conviction:

- a. the cancellation or denial of driving privileges as ordered by the court pursuant to Section 6-107.1 of this title, and
- b. ~~the seizure of the driver license at the time of arrest or detention, and the administrative revocation of driving privileges by the Department of Public Safety pursuant to Section 754 of this title, and~~
- ~~e.~~ the mandatory revocation of driving privileges pursuant to Section 6-205.1, 753 or 754 of this title, which revocation period may be modified as provided by law; and

2. Upon a second or subsequent conviction:

- a. the cancellation or denial of driving privileges for a period of two (2) years or until the person attains eighteen (18) years of age, whichever is longer, pursuant to subsection B of Section 6-107.2 of this title,
- b. the mandatory revocation of driving privileges pursuant to Section 6-205.1, 753 or 754 of this title, which period may be modified as provided by law, and
- c. an assessment of the person's degree of alcohol abuse, in the same manner as prescribed in subsection H of Section 11-902 of this title, which may result in treatment as deemed appropriate by the court.

~~C.~~ E. Nothing in this section shall be construed to prohibit the filing of charges pursuant to Section 761 or 11-902 of this title when the facts warrant.

F. As used in this section:

1. The term "conviction" includes a juvenile delinquency adjudication by a court; and

2. The term "revocation" includes the cancellation or denial of driving privileges by the Department.

SECTION 17. AMENDATORY 47 O.S. 1991, Section 6-205, as last amended by Section 1, Chapter 293, O.S.L. 1998 (47 O.S. Supp. 1999, Section 6-205), is amended to read as follows:

Section 6-205. A. The Department of Public Safety shall immediately revoke the ~~driver license or~~ driving privilege of any person, whether adult or juvenile, upon receiving a record of conviction in any municipal, state or federal court within the United States of any of the following offenses, when such conviction has become final:

1. Manslaughter or negligent homicide resulting from the operation of a motor vehicle;

2. Driving or being in actual physical control of a motor vehicle while under the influence of alcohol, any other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance, any violation of paragraph 1, 2, 3 or 4 of subsection A of Section 11-902 of this title or any violation of Section 6-106.4 16 of this title act. However, the Department shall not additionally revoke ~~a license~~ the driving privileges of the person pursuant to this subsection if the person's driving privilege has been revoked because of a test result or test refusal pursuant to Section 753 or 754 of this title arising from the same circumstances which resulted in the conviction;

3. Any felony during the commission of which a motor vehicle is used;

4. Failure to stop and render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another;

5. Perjury or the making of a false affidavit or statement under oath to the Department under the Uniform Vehicle Code, Section 1-101 et seq. of this title, or under any other law relating to the ownership or operation of motor vehicles;

6. A misdemeanor or felony conviction for unlawfully possessing, distributing, dispensing, manufacturing or trafficking in a controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of Title 63 of the Oklahoma Statutes;

7. Failure to pay for gasoline pumped into a vehicle pursuant to Section 1740 of Title 21 of the Oklahoma Statutes; or

8. A conviction for a violation of paragraph 3 of subsection A of Section 1151 of this title.

B. The first license revocation under any provision of this section, except for paragraph 2, 6, 7 or 8 of subsection A of this section, shall be for a period of one (1) year. Such period shall not be modified.

C. A license revocation under any provision of this section, except for paragraph 2, 6, 7 or 8 of subsection A of this section, shall be for a period of three (3) years if a prior revocation under this section, except under paragraph 2 of subsection A of this section, commenced within the preceding five-year period as shown by the Department's record. Such period shall not be modified.

D. The period of license revocation under paragraph 2 or 6 of subsection A of this section shall be governed by the provisions of Section 6-205.1 of this title.

E. The first license revocation under paragraph 7 or 8 of subsection A of this section shall be for a period of six (6) months. A second or subsequent license revocation under paragraph 7 or 8 of subsection A of this section shall be for a period of one (1) year. Such periods shall not be modified.

SECTION 18. AMENDATORY 47 O.S. 1991, Section 6-205.1, as last amended by Section 3, Chapter 106, O.S.L. 1999 (47 O.S. Supp. 1999, Section 6-205.1), is amended to read as follows:

Section 6-205.1 A. The driving privilege of a person who is convicted of any offense as provided in paragraph 2 or 6 of subsection A of Section 6-205 of this title, or a person who has refused to submit to a test or tests as provided in Section 753 of this title, or a person whose alcohol concentration is subject to the provisions of Section 754 of this title, shall be revoked or denied by the Department of Public Safety for the following period, as applicable:

~~1. The first license revocation pursuant to Section 753 of this title shall be for one hundred eighty (180) days, which may be modified;~~

~~2.~~ The first license revocation pursuant to paragraph 2 of subsection A of Section 6-205 of this title or pursuant to Section 753 or 754 of this title shall be for one hundred eighty (180) days, which may be modified;

~~3.~~ 2. A revocation pursuant to paragraph 2 of subsection A of Section 6-205, or to Section 753 or 754 of this title shall be for a period of one (1) year if within five (5) years preceding the date of arrest relating thereto, a prior revocation commenced pursuant to paragraph 2 or 6 of subsection A of Section 6-205, or to Section 753 or 754 of this title as shown by the Department's records. Such period ~~may~~ shall not be modified; or

~~4.~~ 3. A revocation pursuant to paragraph 2 of subsection A of Section 6-205, or to Section 753 or 754 of this title shall be for a period of three (3) years if within five (5) years preceding the date of arrest relating thereto, two or more prior revocations commenced pursuant to paragraph 2 or 6 of subsection A of Section 6-205, or to Section 753 or 754 of this title as shown by the Department's records. Such period may be modified after one (1) year.

B. The driving privilege of a person who is convicted of any offense as provided in paragraph 6 of subsection A of Section 6-205 of this title shall be revoked or denied by the Department of Public Safety for the following period, as applicable:

1. The first license revocation shall be for one hundred eighty (180) days, which may be modified; provided, for license revocations for a misdemeanor charge of possessing a controlled dangerous substance, the provisions of this paragraph shall apply to any such revocations by the Department on or after January 1, 1993;

2. A revocation shall be for a period of one (1) year if within five (5) years preceding the date of arrest relating thereto, a prior revocation commenced pursuant to paragraph 2 or 6 of subsection A of Section 6-205, or under Section 753 or 754 of this title as shown by the Department's records. Such period may be modified; or

3. A revocation shall be for a period of three (3) years if within five (5) years preceding the date of arrest relating thereto, two or more prior revocations commenced pursuant to paragraph 2 or 6 of subsection A of Section 6-205, or under Section 753 or 754 of this title as shown by the Department's records. Such period may be modified.

The revocation of the driving privilege of any person under this subsection shall not run concurrently with any other withdrawal of driving privilege resulting from a different incident and which requires the driving privilege to be withdrawn for a prescribed amount of time. A denial based on a conviction of any offense as provided in paragraph 6 of subsection A of Section 6-205 of this title shall become effective on the first day the convicted person is otherwise eligible to apply for and be granted driving privilege if the person was not eligible to do so at the time of the conviction.

C. For the purposes of this subsection, ~~the:~~

1. The term "conviction" ~~shall include~~ includes a juvenile delinquency adjudication by a court or any notification from a court pursuant to Section 6-107.1 of this title; and

~~2.~~ The term "revocation" ~~as used in this section~~ includes a denial of driving privileges by the Department.

D. Each period of revocation not subject to modification shall be mandatory and neither the Department nor any court shall grant driving privileges based upon hardship or otherwise for the duration of that period. The Each period of revocation periods, subject to modification as provided for in this section, may be modified as provided for in Section 754.1 or 755 of this title.

E. Any appeal of a revocation or denial of driving privileges shall be governed by Section 6-211 of this title.

SECTION 19. AMENDATORY 47 O.S. 1991, Section 6-211, as last amended by Section 3, Chapter 139, O.S.L. 1999 (47 O.S. Supp. 1999, Section 6-211), is amended to read as follows:

Section 6-211. A. Any person denied driving privileges, or whose driving privilege has been canceled, denied, suspended or revoked by the Department, except where such cancellation, denial, suspension or revocation is mandatory, under the provisions of Section 6-205 of this title, shall have the right of appeal to the district court as hereinafter provided. Proceedings before the district court shall be exempt from the provisions of the Oklahoma Pleading and Discovery codes, except that the appeal shall be by petition, without responsive pleadings. The district court is hereby vested with original jurisdiction to hear said petition.

B. A person whose driving privilege is denied, canceled, revoked or suspended due to inability to meet standards prescribed by law, or due to an out-of-state conviction or violation, or due to an excessive point accumulation on the traffic record, or for an unlawful license issued, may appeal in the county in which the person resides.

C. Any person whose driving privilege is canceled, denied, suspended or revoked may appeal to the district court in the county in which the offense was committed upon which the Department based its order.

D. A person whose driving privilege is revoked or denied or who is denied a hearing pursuant to Section 753 or 754 of this title may appeal to the district court in the county in which the arrest occurred relating to the test refusal or test result, as shown by the records of the Department.

E. The petition shall be filed within thirty (30) days after the order has been served upon the person, except a petition relating to an implied consent revocation shall be filed within thirty (30) days after the Department gives notice to the person that the revocation is sustained as provided in Section 754 of this title. It shall be the duty of the district court to enter an order setting the matter for hearing not less than fifteen (15) days and not more than thirty (30) days from the date the petition is filed. A certified copy of petition and order for hearing shall be served forthwith by the clerk of the court upon the Commissioner of Public Safety by certified mail at the Department of Public Safety, Oklahoma City, Oklahoma.

F. At a hearing on a revocation by the Department pursuant to the implied consent laws as provided in ~~Section~~ Sections 6-205.1, 753 and 754 of this title, the court shall not consider the merits of the revocation action unless a written request for an administrative hearing was timely submitted to the Department and the person actually exercised the opportunity to appear as provided in Section 754 of this title and the Department entered an order sustaining the revocation.

G. Upon a hearing relating to a revocation pursuant to a conviction for an offense enumerated in Section 6-205 of this title,

the court shall not consider the propriety or merits of the revocation action, except to correct the identity of the person convicted as shown by records of the Department.

H. In the event the Department declines to modify a revocation order issued pursuant to Section 753, Section 754, paragraph 2 of subsection A of Section 6-205 or Section 6-205.1 of this title, which is subject to modification pursuant to Section 16 of this act or Section 6-205.1 of this title, a petition for modification may be included with the appeal or separately filed at any time, and the district court may, in its discretion, modify the revocation as provided for in Section 755 of this title.

I. The court shall take testimony and examine the facts and circumstances, including all of the records on file in the office of the Department of Public Safety relative to the offense committed and the driving record of the person, and determine from the facts, circumstances, and records whether or not the petitioner is entitled to driving privileges or shall be subject to the order of denial, cancellation, suspension or revocation issued by the Department. The court may also determine whether or not, from the person's previous driving record, the order was for a longer period of time than such facts and circumstances warranted. In case the court finds that the order was not justified, the court may sustain the appeal, vacate the order of the Department and direct that driving privileges be restored to the petitioner, if otherwise eligible. The court may, in case it determines the order was justified, but that the period of the suspension or revocation was excessive, enter an order modifying the same as provided by law.

J. The testimony of any hearing pursuant to this section shall be taken by the court stenographer and preserved for the purpose of appeal and, in case the Department files notice of appeal from the order of the court as provided herein, the court shall order and direct the court clerk to prepare and furnish a complete transcript of all pleadings and proceedings, together with a complete transcript taken at said hearing at no cost to the Department, except the cost of transcribing.

K. In order to stay or supersede any order of the Department, the petitioner may execute and file a cash appeal bond in the sum of Two Hundred Fifty Dollars (\$250.00) with the clerk of the court, to be approved by the court clerk. A certified copy of the bond endorsed with the approval of the court clerk shall be served along with the notice of hearing and petition.

The bond shall be to the State of Oklahoma and conditioned that the petitioner will prosecute the appeal with due diligence and during pendency of the appeal abide by and not violate any of the laws of this state or any other state in the operation of a motor vehicle, and that the petitioner will abide by and perform the final judgment of the court therein, and in case the appeal is finally denied the appellant will pay all court costs incurred in the appeal in the district court. If the petitioner is convicted of a traffic offense during the pendency of the appeal or fails to prosecute the appeal with due diligence, the bond may be forfeited to the court

fund upon application by the Department and after hearing before the court in which the appeal is pending.

L. After filing and approval of the appeal bond and the furnishing thereof to the Department as hereby provided, the Department shall restore driving privileges to the person if otherwise eligible, and the person shall be permitted to operate a motor vehicle pending the appeal, under terms and conditions as prescribed in the bond which shall include the installation of an ignition interlock device on every motor vehicle operated by the person, pursuant to Section 754.1 or 755 of this title, if the person was denied modification pursuant to any provision of paragraph 2 of subsection A of Section 6-205 or Section 6-205.1, 753 or 754 of this title; provided, however, if the order of the Department is sustained in final judgment, the court shall, in such final judgment, enter an order extending the period of suspension or revocation for such time as the petitioner was permitted to operate motor vehicles under the provisions of an appeal bond, and the court shall also in such final judgment direct and require the immediate surrender of any driver license or licenses to the Department.

M. An appeal may be taken by the person or by the Department from the order or judgment of the district court to the Supreme Court of the State of Oklahoma as otherwise provided by law.

SECTION 20. AMENDATORY 47 O.S. 1991, Section 11-902, as last amended by Section 3 of Enrolled House Bill No. 1920 of the 2nd Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 11-902. A. It is unlawful and punishable as provided in this section for any person to drive, operate, or be in actual physical control of a motor vehicle within this state who:

1. Has a blood or breath alcohol concentration, as defined in Section 756 of this title, of ten-hundredths (0.10) or more at the time of a test of such person's blood or breath administered within two (2) hours after the arrest of such person;

2. Is under the influence of alcohol;

3. Is under the influence of any intoxicating substance other than alcohol which may render such person incapable of safely driving or operating a motor vehicle; or

4. Is under the combined influence of alcohol and any other intoxicating substance which may render such person incapable of safely driving or operating a motor vehicle.

B. The fact that any person charged with a violation of this section is or has been lawfully entitled to use alcohol or a controlled dangerous substance or any other intoxicating substance shall not constitute a defense against any charge of violating this section.

C. 1. ~~Every~~ Any person who is convicted of a violation of the provisions of this section shall be deemed guilty of a misdemeanor

for the first offense and shall be punished by imprisonment in jail for not less than ten (10) days nor more than one (1) year, and a fine of not less than One Hundred Fifty Dollars (\$150.00) nor more than One Thousand Dollars (\$1,000.00).

2. Any person who, within ten (10) years after a previous conviction of a violation of this section or a violation pursuant to the provisions of any law of another state prohibiting the offense provided in subsection A of this section, is convicted of a second offense pursuant to the provisions of this section or has a prior conviction in a municipal criminal court of record for the violation of a municipal ordinance prohibiting the offense provided for in subsection A of this section and within ten (10) years of such municipal conviction is convicted pursuant to the provision of this section shall be deemed guilty of a felony and shall be sentenced to:

a. treatment for a minimum of twenty-eight (28) days followed by thirty (30) days of aftercare at the defendant's expense, or

b. the custody of the Department of Corrections for not less than one (1) year and not to exceed five (5) years and a fine of not less than One Hundred Fifty Dollars (\$150.00) nor more than Two Thousand Five Hundred Dollars (\$2,500.00).

However, if the treatment in subparagraph a of this paragraph does not include inpatient treatment for a period of not less than five (5) days, the person shall serve a term of imprisonment of at least five (5) days.

3. Any person who is convicted of a second felony offense pursuant to the provisions of this section shall be sentenced to:

a. treatment for a minimum of twenty-eight (28) days followed by ninety (90) days of aftercare at the defendant's expense, two hundred forty (240) hours of community service following the aftercare and use of an ignition interlock device, or

b. the custody of the Department of Corrections for not less than one (1) year and not to exceed seven (7) years and a fine of not less than One Hundred Fifty Dollars (\$150.00) nor more than Five Thousand Dollars (\$5,000.00).

However, if the treatment in subparagraph a of this paragraph does not include inpatient treatment for a period of not less than ten (10) days, the person shall serve a term of imprisonment of at least ten (10) days.

4. Any person who is convicted of a third or subsequent felony offense pursuant to the provisions of this section shall be sentenced to:

- a. inpatient treatment for a minimum of twenty-eight (28) days followed by not less than one (1) year of supervision, periodic testing, and aftercare at the defendant's expense, four hundred eighty (480) hours of community service following the period of aftercare, and use of an ignition interlock device for a minimum of thirty (30) days, or
- b. the custody of the Department of Corrections for not less than one (1) year and not to exceed ten (10) years and a fine of not less than One Hundred Fifty Dollars (\$150.00) nor more than Five Thousand Dollars (\$5,000.00).

However, if the person does not undergo inpatient treatment pursuant to subparagraph a of this paragraph the person shall serve a term of imprisonment of at least ten (10) days.

5. Any person who, within ten (10) years after a previous conviction of a violation of murder in the second degree or manslaughter in the first degree in which the death was caused as a result of driving under the influence of alcohol or other intoxicating substance, is convicted of a violation of this section shall be deemed guilty of a felony.

6. Provided, however, a conviction from another state shall not be used to enhance punishment pursuant to the provisions of this subsection if that conviction is based on a blood or breath alcohol concentration of less than ten-hundredths (0.10).

7. In any case in which a defendant is charged with a second or subsequent driving under the influence of alcohol or other intoxicating substance offense within any municipality with a municipal court other than a court of record, the charge shall be presented to the county's district attorney and filed with the district court of the county within which the municipality is located.

8. One Hundred Fifty Dollars (\$150.00) of any fine imposed under this subsection shall be remitted by the court to the State Treasurer to be deposited in the Department of Public Safety Patrol Vehicle Revolving Fund.

D. Any person who is convicted of a violation of driving under the influence with a blood or breath alcohol concentration of fifteen-hundredths (0.15) or more shall be deemed guilty of aggravated driving under the influence. Aggravated driving under the influence shall be punishable by mandatory inpatient treatment for a minimum of twenty-eight (28) days followed by not less than one (1) year of supervision, periodic testing, and aftercare at the defendant's expense, four hundred eighty (480) hours of community service following the period of aftercare, and an ignition interlock device for a minimum of thirty (30) days. Nothing in this subsection shall preclude the defendant from being charged or punished as provided in paragraphs 1, 2, 3, 4 or 5 of subsection C of this section.

E. When a person is sentenced to imprisonment in the custody of the Department of Corrections, the person shall be processed through the Lexington Assessment and Reception Center or at a place determined by the Director of the Department of Corrections. The Department of Corrections shall classify and assign the person to one or more of the following:

1. The Department of Mental Health and Substance Abuse Services pursuant to paragraph 1 of subsection A of Section 612 of Title 57 of the Oklahoma Statutes; or

2. A correctional facility operated by the Department of Corrections with assignment to substance abuse treatment.

~~E. In the event a felony conviction does not result in the person being sentenced to the custody of the Department of Corrections, the person shall be required to serve not less than ten (10) days of community service, or to undergo inpatient rehabilitation or treatment in a public or private facility with at least minimum security for a period of not less than forty-eight (48) consecutive hours, notwithstanding the provisions of Sections 991a, 991a-2 and 996.3 of Title 22 of the Oklahoma Statutes.~~

F. The Department of Mental Health and Substance Abuse Services and the Department of Corrections ~~may~~ shall certify to the Department of Public Safety that a person has participated in an alcohol and substance abuse evaluation and assessment program, as provided in subsection H of this section, and successfully completed a any drug treatment program required by the court and is successfully complying with any follow-up treatment required by the Department of Corrections. In such case, the person shall be given credit therefor as fulfillment of all provisions of Section 3-453 of Title 43A of the Oklahoma Statutes and shall be permitted to apply for reinstatement of any suspension, revocation, cancellation or denial order withdrawing a privilege to drive, if the person is otherwise eligible.

G. The Department of Public Safety is hereby authorized to reinstate any suspended or revoked ~~license~~ driving privilege when the ~~applicant~~ person meets the statutory requirements which affect the existing driving privilege.

H. ~~Except as provided in subsection J of this section, any~~ Any person who is found guilty of a violation of the provisions of this section shall be ordered to participate in, prior to sentencing, an alcohol and drug substance abuse evaluation and assessment program offered by a facility or qualified practitioner certified by the Department of Mental Health and Substance Abuse Services for the purpose of evaluating and assessing 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 and assessment. 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 and assessment shall not exceed Seventy-five Dollars (\$75.00). The evaluation and assessment 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 evaluated and assessed, submit a written report to the court for the purpose of assisting the court in its final sentencing determination. If such report indicates that the evaluation and assessment shows that the defendant would benefit from a treatment program, the court shall, as a condition of any sentence imposed, including deferred and suspended sentences, require the person to participate in an alcohol and drug substance abuse treatment program at an approved treatment facility as defined by Section 3-403 of Title 43A of the Oklahoma Statutes. No person, agency or facility operating an alcohol and drug substance abuse evaluation and assessment program certified by the Department of Mental Health and Substance Abuse Services shall solicit or refer any person evaluated and assessed pursuant to this section 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 imprisonment in the custody of the Department of Corrections and the court has received a written evaluation report pursuant to the provisions of this subsection, the report shall be furnished to the Department of Corrections with the judgment and sentence. Any evaluation and assessment report submitted to the court pursuant to the provisions of 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 and assessment required by this subsection. If the defendant fails or refuses to comply with an order of the court to obtain the evaluation and assessment, the Department of Public Safety shall not reinstate driving privileges until the defendant has complied in full with such order. 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. Nothing contained in this subsection shall be construed to prohibit the court from ordering judgment and sentence and any other sanction authorized by law for failure or refusal to comply with an order of the court.

I. Any person who is found guilty of a violation of the provisions of this section may be required by the court 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 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, if in the opinion of the court the defendant has the ability to pay such fee.

J. Any person who is found guilty of a ~~felony~~ second or subsequent violation of the provisions of this section, ~~who receives a suspended sentence and who does not already have an ignition interlock device installed pursuant to Section 754.1 of this title,~~ shall ~~as a condition of that suspended sentence be required~~ ordered by the court to have installed, after the conclusion of the mandatory revocation period pursuant to Section 6-205.1 of this title, on every motor vehicle owned by the person and on the vehicle regularly operated by the person, if such vehicle is not owned by the person pursuant to Sections 754.1 and 755 of this title, an ignition interlock device approved by the Department of Public Safety at the person's own expense for a period of not less than six (6) months nor more than three (3) years. ~~The ignition interlock device shall be placed on the motor vehicle owned by the defendant or on the vehicle most regularly operated by the defendant.~~ The person shall pay the monthly maintenance fee for ~~the~~ each ignition interlock device ~~as a condition of the suspended sentence~~ installed pursuant to this subsection. The installation of an ignition interlock device, as required by this subsection, shall not be construed to authorize the person to drive unless the person is otherwise eligible to drive.

K. Any person who is found guilty of a felony violation of the provisions of this section may be required to submit to electronic monitoring as authorized and defined by Section 991a of Title 22 of the Oklahoma Statutes.

L. Any person who, within ten (10) years after a previous conviction of a violation of this section or a violation pursuant to the provisions of law of another state prohibiting the offense provided in subsection A of this section or a violation of a municipal ordinance prohibiting the offense provided in subsection A of this section, pleads guilty or nolo contendere or is convicted of a violation of this section shall not be required to undergo the alcohol and drug substance evaluation program required by subsection H of this section. The court shall, as a condition of any sentence imposed, including deferred and suspended sentences, require the person to participate in an alcohol and drug substance abuse treatment program pursuant to Section 3-452 of Title 43A of the Oklahoma Statutes.

M. Any person who is found guilty of a violation of the provisions of this section who has been sentenced by the court to perform any type of community service shall not be permitted to pay a fine in lieu of performing the community service.

SECTION 21. AMENDATORY 47 O.S. 1991, Section 756, as last amended by Section 10, Chapter 309, O.S.L. 1996 (47 O.S. Supp. 1999, Section 756), is amended to read as follows:

Section 756. A. Upon the trial of any criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a motor vehicle while under the influence of alcohol or any other intoxicating substance, or the combined influence of alcohol and any other intoxicating substance, evidence of the alcohol concentration in the blood or breath of the person as shown by analysis of the

blood or breath of the person performed in accordance with the provisions of Sections 752 and 759 of this title or evidence of the presence and concentration of any other intoxicating substance as shown by analysis of such person's blood, breath, saliva, or urine specimens in accordance with the provisions of Sections 752 and 759 of this title is admissible. Evidence that the person has refused to submit to either of said analyses is also admissible. For the purpose of this title, when the person is under the age of twenty-one (21) years, evidence that there was, at the time of the test, any measurable quantity of alcohol is prima facie evidence that the person is under the influence of alcohol in violation of Section 16 of this act. For persons twenty-one years of age or older:

1. Evidence that there was, at the time of the test, an alcohol concentration of five-hundredths (0.05) or less is prima facie evidence that the person was not under the influence of alcohol;

2. Evidence that there was, at the time of the test, an alcohol concentration in excess of five-hundredths (0.05) but less than ten-hundredths (0.10) is relevant evidence that the person's ability to operate a motor vehicle was impaired by alcohol. However, no person shall be convicted of the offense of operating or being in actual physical control of a motor vehicle while such person's ability to operate such vehicle was impaired by alcohol solely because there was, at the time of the test, an alcohol concentration in excess of five-hundredths (0.05) but less than ten-hundredths (0.10) in the blood or breath of the person in the absence of additional evidence that such person's ability to operate such vehicle was affected by alcohol to the extent that the public health and safety was threatened or that said person had violated a state statute or local ordinance in the operation of a motor vehicle; and

3. Evidence that there was, at the time of the test, an alcohol concentration of ten-hundredths (0.10) or more shall be admitted as prima facie evidence that the person was under the influence of alcohol.

B. For purposes of this title, "alcohol concentration" means grams of alcohol per one hundred (100) milliliters of blood if the blood was tested, or grams of alcohol per two hundred ten (210) liters of breath if the breath was tested.

C. To be admissible in a proceeding, the evidence must first be qualified by establishing that the test was administered to the person within two (2) hours after the arrest of the person.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 916.3 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Notwithstanding the provisions of Sections 901 through 932 of Title 74 of the Oklahoma Statutes, a monthly pension, as provided in subsection B of this section, shall be paid on behalf of any member who is a correctional officer or probation and parole officer of the Department of Corrections and who is killed or mortally wounded on or after January 1, 2000, during the performance of the member's duties for the Department.

B. The monthly benefit shall be equal to:

1. Two and one-half percent (2 1/2%);

2. Multiplied by twenty (20) years of service, regardless of the actual number of years of credited service performed by the member prior to death, if the member had performed less than twenty (20) years of credited service, or the actual number of years of credited service of the member if greater than twenty (20) years;

3. Multiplied by the member's final average compensation; and

4. Divided by 12.

C. The pension provided for in subsection A of this section shall be paid:

1. Except as provided in subsection D of this section, to the surviving spouse for life; or

2. If there is no surviving spouse or upon the death of the surviving spouse:

a. to the surviving child or children of said member or legal guardian of such child or children for such time as such child or children are under the age of eighteen (18) years, or

b. to the surviving child or children between the age of eighteen (18) and twenty-two (22) years if the child is enrolled full time in and is regularly attending a public or private school or any institution of higher education.

D. No surviving spouse shall receive benefits from this section, Section 49-113 of Title 11 of the Oklahoma Statutes, Section 50-117 of Title 11 of the Oklahoma Statutes, or Section 2-306 of Title 47 of the Oklahoma Statutes as the surviving spouse of more than one member of the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the Oklahoma Law Enforcement Retirement System, or the Oklahoma Public Employees Retirement System. The surviving spouse of more than one member shall elect which member's benefits he or she will receive.

E. The pension benefit provided in this section shall be made prospectively only from the effective date of this act. The benefits shall be payable beginning the later of the first day of the month following the date that such employee was killed or dies from a mortal wound, as provided in this section, or the effective date of this act.

F. The Board of the Oklahoma Public Employees Retirement System shall promulgate such rules as are necessary to implement the provisions of this section.

SECTION 23. AMENDATORY 74 O.S. 1991, Section 19, as last amended by Section 1 of Enrolled House Bill No. 1002 of the 2nd Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 19. A. 1. Out of all money received or collected by the Attorney General on behalf of the state or any department or agency thereof, and ~~by him~~ paid into the State Treasury, twenty-five percent (25%) thereof shall be deposited as follows: three-fourths (3/4) in a special agency account fund in the State Treasury, designated the Attorney General's Evidence Fund, which fund shall be a continuing fund, not subject to fiscal year limitations, and one-fourth (1/4) in the Attorney General's Revolving Fund created by Section 20 of this title. Provided, however, the provisions for deposits into the Attorney General's Revolving Fund ~~and the Attorney General's Evidence Fund~~ shall not apply to any monies paid to the State of Oklahoma as a result of the settlement of the lawsuit filed by the State of Oklahoma against the tobacco industry.

2. All money paid to the Attorney General for reimbursement of court costs, fees and other expenses and appropriated monies authorized to be transferred to the agency special account shall be deposited in the Attorney General's Evidence Fund. Such fund shall be used by the Attorney General for necessary expenses relative to any pending case or other matter within the official responsibility of the Attorney General. ~~Provided, that~~

3. Notwithstanding other provisions of this section, the balance on deposit in ~~such fund~~ the Attorney General's Evidence Fund shall never exceed the sum of One Million Five Hundred Thousand Dollars (\$1,500,000.00).

B. All money received or credited by the Attorney General on behalf of the Teachers' Retirement System of Oklahoma, the Oklahoma Public Employees Retirement System, the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the Oklahoma Law Enforcement Retirement System or the Uniform Retirement System for Justices and Judges shall be paid to the State Treasurer of the state and ~~by him~~ distributed to the appropriate fund of the respective retirement system as directed by the board of trustees of said respective retirement system. The Attorney General shall invoice the respective retirement system and the respective retirement system shall pay for reasonable attorney's fee for actual legal services rendered by the Attorney General's office related to the money received or credited on behalf of the respective retirement system based on an hourly rate determined by the Attorney General. The hourly rate charged by the Attorney General to a retirement system for services related to the collection of money received or credited on behalf of the respective retirement system shall be based on the labor, time and problems involved, the skill and expertise called for in the performance of the services and the standing of the specific attorney or attorneys involved. The hourly rate charged by the Attorney General to a retirement system shall not be based on the value of the property at issue or recovered. The Attorney General shall not separately invoice a retirement system for the work performed by an attorney employed by the Attorney General's office whose salary and other

related costs are paid in part or in whole by said retirement system pursuant to an agreement entered into between the Attorney General and the retirement system for legal services.

C. From any monies paid to the State of Oklahoma representing attorney fees, paralegal fees and other costs of litigating the lawsuit filed by the State of Oklahoma against the tobacco industry, the Attorney General shall make such deposits as are appropriate pursuant to subsection A of this section. The balance of any such monies shall be deposited in the General Revenue Fund of the State Treasury.

SECTION 24. AMENDATORY Section 2 of Enrolled House Bill No. 1002 of the 2nd Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 2. There is hereby created in the State Treasury a revolving fund to be known and designated as the Tobacco Settlement Fund, into which fund shall be deposited ~~all~~:

1. All monies received by the state or any official, agency or department of the state in settlement of claims by the state against tobacco manufacturers during the month of April, 2000;

2. All monies received by the state or any official, agency or department of the state in settlement of claims by the state against tobacco manufacturers during fiscal year 2001;

3. Except as provided in Section 19 of Title 74 of the Oklahoma Statutes, that portion of monies received by the state or any official, agency or department of the state in settlement of claims by the state against tobacco manufacturers which is not otherwise apportioned in the Oklahoma Constitution during fiscal year 2002 and subsequent fiscal years; and

4. Such other monies as may be appropriated or otherwise directed thereto by law.

The Tobacco Settlement Fund shall be a continuing fund, not subject to fiscal year limitations. No monies shall be paid out of such fund except pursuant to authorization by the Legislature.

SECTION 25. TRANSFER The Director of State Finance shall transfer the sum of Fifty Million Dollars (\$50,000,000.00), from any monies in the Tobacco Settlement Fund of the State Treasury for the fiscal year ending June 30, 2001, not otherwise appropriated, to the Tobacco Settlement Endowment Trust Fund of the State Treasury.

SECTION 26. AMENDATORY Section 81 of Enrolled Senate Bill No. 965 of the 2nd Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 81. There is hereby appropriated to the Department of Transportation from any monies not otherwise appropriated from the General Revenue Fund of the State Treasury for the fiscal year ending ~~June 30, 2000~~ June 30, 2001, the sum of Five Hundred Thousand Dollars (\$500,000.00) or so much thereof as may be necessary to

perform the duties imposed upon the Department of Transportation by law. The appropriation set forth in this section shall be transferred to the Public Transit Revolving Fund.

SECTION 27. There is hereby appropriated to The 1921 Tulsa Race Riot Commission Revolving Fund created in Section 4 of Enrolled House Bill No. 2468 of the 2nd Session of the 47th Oklahoma Legislature from any monies not otherwise appropriated from the General Revenue Fund of the State Treasury for the fiscal year ending June 30, 2001, the sum of Two Hundred Fifty Thousand Dollars (\$250,000.00) or so much thereof as may be necessary for the purpose of completing the study of the 1921 Tulsa Race Riot and to perform the duties imposed upon The 1921 Tulsa Race Riot Memorial of Reconciliation Design Committee by law.

SECTION 28. AMENDATORY Section 56 of Enrolled House Bill No. 2260 of the 2nd Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 56. There is hereby appropriated to the Legislative Service Bureau from any monies not otherwise appropriated from the General Revenue Fund of the State Treasury for the fiscal year ending June 30, 2001, the sum of ~~One Million Five Hundred Fifty-seven Thousand Eight Hundred Ninety-nine Dollars (\$1,557,899.00)~~ One Million Fifty-seven Thousand Eight Hundred Ninety-nine Dollars (\$1,057,899.00) or so much thereof as may be necessary to perform the duties imposed upon the Legislative Service Bureau by law.

SECTION 29. There is hereby appropriated to the Legislative Service Bureau from any monies not otherwise appropriated from the Special Cash Fund of the State Treasury for the fiscal year ending June 30, 2001, the sum of Five Hundred Thousand Dollars (\$500,000.00) or so much thereof as may be necessary to perform the duties imposed upon the Legislative Service Bureau by law.

SECTION 30. AMENDATORY Section 20 of Enrolled House Bill No. 2260 of the 2nd Session of the 47th Oklahoma Legislature, as amended by Section 1 of Enrolled House Bill No. 2249 of the 2nd Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 20. There is hereby appropriated to the Oklahoma State Regents for Higher Education from any monies not otherwise appropriated from the General Revenue Fund of the State Treasury for the fiscal year ending June 30, 2001, the sum of ~~Six Hundred Eighteen Million Two Hundred Fifty-seven Thousand Nine Hundred Seventy-six Dollars (\$618,257,976.00)~~ Six Hundred Eighteen Million Six Hundred Fifty-five Thousand Five Hundred Sixteen Dollars (\$618,655,516.00) or so much thereof as may be necessary for allocation by the Oklahoma State Regents for Higher Education pursuant to the provisions of Article XIII-A of the Oklahoma Constitution for the education and general operating budgets of the institutions and for other programs, construction, renovations or repairs administered by the Oklahoma State Regents for Higher Education.

SECTION 31. AMENDATORY Section 27 of Enrolled House Bill No. 2260 of the 2nd Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 27. There is hereby appropriated to the Oklahoma State Regents for Higher Education from any monies not otherwise appropriated from the Special Cash Fund of the State Treasury the sum of ~~Four Million Five Hundred Seventy-two Thousand Five Hundred Four Dollars (\$4,572,504.00)~~ Four Million One Hundred Seventy-four Thousand Nine Hundred Sixty-four Dollars (\$4,174,964.00) or so much thereof as may be necessary for allocation by the Oklahoma State Regents for Higher Education pursuant to the provisions of Article XIII-A of the Constitution of the State of Oklahoma for the education and general operating budgets of the institutions and for other programs, construction, renovations or repairs administered by the Oklahoma State Regents for Higher Education.

SECTION 32. It is the intent of the Legislature that the Oklahoma Health Care Authority submit its budget work program for the fiscal year ending June 30, 2001, to reflect the full implementation of the provisions of Enrolled House Bill No. 2019 of the 2nd Session of the 47th Oklahoma Legislature. The budget work program shall reflect the total anticipated cost of the implementation of the provisions of Enrolled House Bill No. 2019 of the 2nd Session of the 47th Oklahoma Legislature and continuing obligations of the Medicaid program. Should the total cost of such implementation exceed the appropriations made for that purpose during the 47th Oklahoma Legislature, it is the intent of the Legislature to make supplemental appropriations to fully fund such implementation and the Medicaid program.

The Oklahoma Health Care Authority shall report on a monthly basis the costs of implementing the provisions of Enrolled House Bill No. 2019 of the 2nd Session of the 47th Oklahoma Legislature and the Medicaid program and the status of funding for such purposes. The reports shall be made in writing to the Governor, Speaker of the House of Representatives and the President Pro Tempore of the Senate or their designees.

SECTION 33. RECODIFICATION Section 1, Chapter 320, O.S.L. 1995 (47 O.S. Supp. 1999, Section 6-106.1), as last amended by Section 13 of this act, shall be recodified as Section 11-906.1 of Title 47 of the Oklahoma Statutes, unless there is created a duplication in numbering. Section 2, Chapter 320, O.S.L. 1995 (47 O.S. Supp. 1999, Section 6-106.2), as amended by Section 14 of this act, shall be recodified as Section 11-906.2 of Title 47 of the Oklahoma Statutes, unless there is created a duplication in numbering. Section 3, Chapter 320, O.S.L. 1995 (47 O.S. Supp. 1999, Section 6-106.3), as last amended by Section 15 of this act, shall be recodified as Section 11-906.3 of Title 47 of the Oklahoma Statutes, unless there is created a duplication in numbering. Section 1, Chapter 309, O.S.L. 1996 (47 O.S. Supp. 1999, Section 6-106.4), as last amended by Section 16 of this act, shall be recodified as Section 11-906.4 of Title 47 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 34. REPEALER 47 O.S. 1991, Section 11-902, as last amended by Section 1 of Enrolled Senate Bill No. 1443 of the 2nd Session of the 47th Oklahoma Legislature, is hereby repealed.

SECTION 35. Section 23 of this act shall become effective July 1, 2001.

SECTION 36. Sections 1 through 22, 24, and 26 through 34 of this act shall become effective July 1, 2000.

SECTION 37. Section 25 of this act shall become effective January 1, 2001, contingent upon certification of election returns favoring passage of the Constitutional Amendment proposed in Enrolled House Bill No. 2022 of the 2nd Session of the 47th Oklahoma Legislature.

SECTION 38. 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.

Passed the Senate the 28th day of June, 2000.

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President of the Senate

Passed the House of Representatives the 28th day of June, 2000.

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Speaker of the House of Representatives

