

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

SENATE BILL 1608

By: Smith of the Senate

and

Toure of the House

AS INTRODUCED

An Act relating to duplicate sections; amending 21 O.S. 1991, Section 1123, as last amended by Section 2 of Enrolled House Bill No. 2121 of the 2nd Session of the 47th Oklahoma Legislature, 22 O.S. 1991, Section 991a, as last amended by Section 1 of Enrolled Senate Bill No. 1046 of the 2nd Session of the 47th Oklahoma Legislature, 37 O.S. 1991, Section 163.7, as last amended by Section 1 of Enrolled House Bill No. 2317 of the 2nd Session of the 47th Oklahoma Legislature, 47 O.S. 1991, Section 583, as last amended by Section 3 of Enrolled House Bill No. 2177 of the 2nd Session of the 47th Oklahoma Legislature, 59 O.S. 1991, Section 698.2, as last amended by Section 7 of Enrolled House Bill No. 2353 of the 2nd Session of the 47th Oklahoma Legislature, 59 O.S. 1991, Section 698.7, as last amended by Section 5 of Enrolled House Bill No. 2353 of the 2nd Session of the 47th Oklahoma Legislature, and 70 O.S. 1991, Section 5-115, as last amended by Section 15 of Enrolled Senate Bill No. 1390 of the 2nd Session of the 47th Oklahoma Legislature, which are duplicate sections; repealing 21 O.S. 1991, Section 1123, as last amended by Section 1 of Enrolled House Bill No. 2349 of the 2nd Session of the 47th Oklahoma Legislature, 22 O.S. 1991, Section 991a, as last amended by Section 3 of Enrolled House Bill No. 2209 of the 2nd Session of the 47th Oklahoma Legislature, 37 O.S. 1991, Section 163.7, as last amended by Section 1 of Enrolled Senate Bill No. 1218 of the 2nd Session of the 47th Oklahoma Legislature, 47 O.S. 1991, Section 583 as last amended by Section 1 of Enrolled Senate Bill No. 1233 of the 2nd Session of the 47th Oklahoma Legislature, 47 O.S. 1991, Section 583, as last amended by Section 1 of Enrolled House Bill No. 2553 of the 2nd Session of the 47th Oklahoma Legislature, 59 O.S. 1991, Section 698.2, as last amended by Section 4 of Enrolled Senate Bill No. 838 of the 2nd Session of the 47th Oklahoma Legislature, 59 O.S. 1991, Section 698.7, as last amended by Section 5 of Enrolled Senate Bill No. 838 of the 2nd Session of the 47th Oklahoma Legislature, and 70 O.S. 1991, Section 5-115, as last amended by Section 1 of Enrolled Senate Bill No. 1157 of the 2nd Session of the 47th Oklahoma Legislature; providing effective dates; and declaring an emergency.

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

SECTION 1. AMENDATORY 21 O.S. 1991, Section 1123, as last amended by Section 2 of Enrolled House Bill No. 2121 of the 2nd Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 1123. A. Any person who shall knowingly and intentionally:

1. Make any oral ~~or~~, written or electronically or computer-generated lewd or indecent proposal to any child under sixteen (16) years of age for the child to have unlawful sexual relations or sexual intercourse with any person; or

2. Look upon, touch, maul, or feel the body or private parts of any child under sixteen (16) years of age in any lewd or lascivious manner by any acts against public decency and morality, as defined by law; or

3. Ask, invite, entice, or persuade any child under sixteen (16) years of age to go alone with any person to a secluded, remote, or secret place, with the unlawful and willful intent and purpose then and there to commit any crime against public decency and morality, as defined by law, with the child; or

4. In any manner lewdly or lasciviously look upon, touch, maul, or feel the body or private parts of any child under sixteen (16) years of age in any indecent manner or in any manner relating to sexual matters or sexual interest; or

5. In a lewd and lascivious manner and for the purpose of sexual gratification, urinate or defecate upon a child under sixteen (16) years of age or ejaculate upon or in the presence of a child, or force or require a child to look upon the body or private parts of another person or upon sexual acts performed in the presence of the child or force or require a child to touch or feel the body or private parts of said child or another person,

upon conviction, shall be deemed guilty of a felony and shall be punished by imprisonment in the State Penitentiary for not less than one (1) year nor more than twenty (20) years. The provisions of this section shall not apply unless the accused is at least three (3) years older than the victim. Any person convicted of a second or subsequent violation of subsection A of this section shall be guilty of a felony and shall not be eligible for probation, suspended or deferred sentence. Any person convicted of a third or subsequent violation of subsection A of this section shall be guilty of a felony and shall be punished by imprisonment in the State Penitentiary for a term of life or life without parole, in the discretion of the jury, or in case the jury fails or refuses to fix punishment then the same shall be pronounced by the court.

B. No person shall commit sexual battery on any other person. "Sexual battery" shall mean the intentional touching, mauling or feeling of the body or private parts of any person sixteen (16) years of age or older, in a lewd and lascivious manner and without the consent of that person or when committed by a state, county, municipal or political subdivision employee or a contractor or an employee of a contractor of the state, a county, a municipality or political subdivision of this state upon a person who is under the legal custody, supervision or authority of a state agency, a county, a municipality or a political subdivision of this state.

C. Any person convicted of any violation of this subsection shall be deemed guilty of a felony and shall be punished by imprisonment in the State Penitentiary for not more than five (5) years.

SECTION 2. AMENDATORY 22 O.S. 1991, Section 991a, as last amended by Section 1 of Enrolled Senate Bill No. 1046 of the 2nd Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 991a. A. Except as otherwise provided in the Elderly and Incapacitated Victims Protection Program, when a defendant is convicted of a crime and no death sentence is imposed, the court shall either:

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

- a. to provide restitution to the victim according to a schedule of payments established by the sentencing court, together with interest upon any pecuniary sum at the rate of twelve percent (12%) per annum, if the defendant agrees to pay such restitution or, in the opinion of the court, if the defendant is able to pay such restitution without imposing manifest hardship on the defendant or the immediate family and if the extent of the damage to the victim is determinable with reasonable certainty,
- b. to reimburse any state agency for amounts paid by the state agency for hospital and medical expenses incurred by the victim or victims, as a result of the criminal act for which such person was convicted, which reimbursement shall be made directly to the state agency, with interest accruing thereon at the rate of twelve percent (12%) per annum,
- c. to engage in a term of community service without compensation, according to a schedule consistent with the employment and family responsibilities of the person convicted,
- d. to pay a reasonable sum into any trust fund, established pursuant to the provisions of Sections 176 through 180.4 of Title 60 of the Oklahoma Statutes,

and which provides restitution payments by convicted defendants to victims of crimes committed within this state wherein such victim has incurred a financial loss,

- e. to confinement in the county jail for a period not to exceed six (6) months,
- f. to reimburse the court fund for amounts paid to court-appointed attorneys for representing the defendant in the case in which he or she is being sentenced,
- g. to repay the reward or part of the reward paid by a certified local crimestoppers program and the Oklahoma Reward System. In determining whether the defendant shall repay the reward or part of the reward, the court shall consider the ability of the defendant to make the payment, the financial hardship on the defendant to make the required payment, and the importance of the information to the prosecution of the defendant as provided by the arresting officer or the district attorney with due regard for the confidentiality of the records of the certified local crimestoppers program and the Oklahoma Reward System. The court shall assess this repayment against the defendant as a cost of prosecution. "Certified local crimestoppers program" means a crimestoppers program certified by the Office of the Attorney General pursuant to Section 991g of this title. The "Oklahoma Reward System" means the reward program established by Section 150.18 of Title 74 of the Oklahoma Statutes,
- h. to reimburse the Oklahoma State Bureau of Investigation for costs incurred by that agency during its investigation of the crime for which the defendant pleaded guilty, nolo contendere or was convicted,

including compensation for laboratory, technical, or investigation services performed by the Bureau if, in the opinion of the court, the defendant is able to pay without imposing manifest hardship on the defendant, and if the costs incurred by the Bureau during the investigation of the defendant's case may be determined with reasonable certainty,

- i. to pay a reasonable sum to the Crime Victims Compensation Board, created by Section 142.2 et seq. of Title 21 of the Oklahoma Statutes, for the benefit of crime victims,
- j. to reimburse the court fund for amounts paid to court-appointed attorneys for representing the defendant in the case in which the person is being sentenced,
- k. to participate in substance abuse education or treatment, pursuant to Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes, or as ordered by the court,
- l. to be placed in a victims impact panel program or victim/offender reconciliation program and payment of a fee to the program of not less than Five Dollars (\$5.00) nor more than Twenty-five Dollars (\$25.00) as set by the governing authority of the program to offset the cost of participation by the defendant. Provided, each victim/offender reconciliation program shall be required to obtain a written consent form voluntarily signed by the victim and defendant that specifies the methods to be used to resolve the issues, the obligations and rights of each person, and the confidentiality of the proceedings. Volunteer mediators and employees of a victim/offender reconciliation program shall be immune from liability

- and have rights of confidentiality as provided in Section 1805 of Title 12 of the Oklahoma Statutes,
- m. to install an ignition interlock device approved by the Department of Public Safety at the defendant's own expense. The device shall be installed upon every motor vehicle operated by the defendant, and the court shall require that a notation of this restriction be affixed to the defendant's driver license. The restriction shall remain on the driver license not exceeding two (2) years to be determined by the court. The restriction may be modified or removed only by order of the court and notice of any modification order shall be given to the Department of Public Safety. Upon the expiration of the period for the restriction, the Department of Public Safety shall remove the restriction without further court order. Failure to comply with the order to install an ignition interlock device or operating any vehicle without a device during the period of restriction shall be a violation of the sentence and may be punished as deemed proper by the sentencing court. As used in this paragraph, "ignition interlock device" means a device that, without tampering or intervention by another person, would prevent the defendant from operating a motor vehicle if the defendant has a blood or breath alcohol concentration of five-hundredths (0.05) or greater,
- n. to be confined by electronic monitoring administered and supervised by the Department of Corrections or a community sentence provider, and payment of a monitoring fee to the supervising authority, not to exceed Seventy-five Dollars (\$75.00) per month. Any

fees collected pursuant to this paragraph shall be deposited with the appropriate supervising authority. Any willful violation of an order of the court for the payment of the monitoring fee shall be a violation of the sentence and may be punished as deemed proper by the sentencing court. As used in this paragraph, "electronic monitoring" means confinement of the defendant within a specified location or locations with supervision by means of an electronic device approved by the Department of Corrections which is designed to detect if the defendant is in the court-ordered location at the required times and which records violations for investigation by a qualified supervisory agency or person,

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



- p. to submit to periodic testing for alcohol, intoxicating substance, or controlled dangerous substances by a qualified laboratory,
- q. to pay a fee, costs for treatment, education, supervision, participation in a program, or any combination thereof as determined by the court, based upon the defendant's ability to pay the fees or costs,
- r. to be supervised by a Department of Corrections employee, a private supervision provider, or other person designated by the court,
- s. to obtain positive behavior modeling by a trained mentor,
- t. to serve a term of confinement in a restrictive housing facility available in the community,
- u. to serve a term of confinement in the county jail at night or during weekends pursuant to Section 991a-2 of this title or for work release,
- v. to obtain employment or participate in employment-related activities,
- w. to participate in mandatory day reporting to facilities or persons for services, payments, duties or person-to-person contacts as specified by the court,
- x. to pay day fines not to exceed fifty percent (50%) of the net wages earned. For purposes of this paragraph, "day fine" means the offender is ordered to pay an amount calculated as a percentage of net daily wages earned. The day fine shall be paid to the local community sentencing system as reparation to the community. Day fines shall be used to support the local system,

- y. to submit to blood testing as required by Section 588 of Title 57 of the Oklahoma Statutes,
- z. to repair or restore property damaged by the defendant's conduct, if the court determines the defendant possesses sufficient skill to repair or restore the property and the victim consents to the repairing or restoring of the property,
- aa. to restore damaged property in kind or payment of out-of-pocket expenses to the victim, if the court is able to determine the actual out-of-pocket expenses suffered by the victim,
- bb. to attend a victim-offender reconciliation program if the victim agrees to participate and the offender is deemed appropriate for participation,
- cc. in the case of a person convicted of prostitution pursuant to Section 1029 of Title 21 of the Oklahoma Statutes, require such person to receive counseling for the behavior which may have caused such person to engage in prostitution activities. Such person may be required to receive counseling in areas including but not limited to alcohol and substance abuse, sexual behavior problems, or domestic abuse or child abuse problems,
- dd. in the case of a sex offender, require the person to participate in a treatment program, if available. The treatment program must be approved by the person who has supervisory authority over the defendant. Such treatment shall be at the expense of the defendant based on the defendant's ability to pay. For purposes of this provision, "sex offense" shall not include a violation of paragraph 1 of subsection A of Section 1021 of Title 21 of the Oklahoma Statutes,

- ee. in addition to other sentencing powers of the court, the court in the case of a defendant being sentenced for a felony conviction for a violation of Section 2-402 of Title 63 of the Oklahoma Statutes which involves marijuana may require the person to participate in a drug court program, if available. If a drug court program is not available, the defendant may be required to participate in a community sanctions program, if available, and
- ff. any other provision specifically ordered by the court.

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

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

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

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

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

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

- a. to participate in an alcohol and drug substance abuse course or treatment program, pursuant to Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes,
- b. to attend a victims impact panel program, if such a program is offered in the county where the judgment is rendered, and to pay a fee, not less than 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,
- c. to both participate in the alcohol and drug substance abuse course or treatment program, pursuant to subparagraph a of this paragraph and attend a victims impact panel program, pursuant to subparagraph b of this paragraph,
- d. to install an ignition interlock device, at the person's own expense, approved by the Department of Public Safety, upon every motor vehicle operated by such person and to require that a notation of this restriction be affixed to the person's driver license at the time of reinstatement of the license. The restriction shall remain on the driver license for such period as the court shall determine. The

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

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

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

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

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

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

10. In addition to the other sentencing powers of the court, the court, in the case of a person convicted of child abuse or neglect, as defined in Section 7102 of Title 10 of the Oklahoma Statutes, may require the person to undergo treatment or to participate in counseling services. The defendant may be required to pay all or part of the cost of the treatment or counseling services.

B. Notwithstanding any other provision of law, any person who is found guilty of a violation of any provision of Section 761 or 11-902 of Title 47 of the Oklahoma Statutes or any person pleading guilty or nolo contendere for a violation of any provision of such sections shall be ordered to participate in, prior to sentencing, an alcohol and drug substance abuse evaluation program offered by a

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

refuses to comply with an order of the court to obtain the evaluation required by this subsection.

As used in this subsection, "qualified practitioner" means a person with at least a bachelor's degree in substance abuse treatment, mental health or a related health care field and at least two (2) years' experience in providing alcohol treatment, other drug abuse treatment, or both alcohol and other drug abuse treatment who is certified each year by the Department of Mental Health and Substance Abuse Services to provide these assessments. However, any person who does not meet the requirements for a qualified practitioner as defined herein, but who has been previously certified by the Department of Mental Health and Substance Abuse Services to provide alcohol or drug treatment or assessments, shall be considered a qualified practitioner provided all education, experience and certification requirements stated herein are met within two (2) years from the effective date of this act.

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



of subsection A of this section. Provided, the court may waive these prohibitions upon written application of the district attorney. Both the application and the waiver shall be made part of the record of the case.

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

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

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

G. 1. ~~The Division of Probation and Parole of the~~ The Department of Corrections is hereby authorized, subject to funds available through appropriation by the Legislature, to contract with

counties for the administration of county Community Service Sentencing Programs.

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

3. The ~~Division~~ Department shall establish criteria and specifications for contracts with counties for such Programs. A county may apply to the ~~Division~~ Department for a contract for a county-funded Program for a specific period of time. The Department shall be responsible for ensuring that any contracting county complies in full with specifications and requirements of the contract. The contract shall set appropriate compensation to the county for services to the ~~Division~~ Department.

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

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

H. As used in this section:

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

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

I. A person convicted of an offense as provided in Section 650, 650.2, 650.5, 650.6, 650.7, 650.8, 651, 652, 701.7, 701.8, 711, 832, 885, 888, 1114, subsection B of Section 1021, 1021.2, 1021.3, 1087, 1088, 1123, 1173 or 1192.1 of Title 21 of the Oklahoma Statutes or a person convicted of any felony who has a prior conviction for an offense listed in this subsection shall submit to deoxyribonucleic acid testing for law enforcement identification purposes in accordance with Section 150.27 of Title 74 of the Oklahoma Statutes and the rules promulgated by the Oklahoma State Bureau of Investigation for the OSBI DNA Offender Database. Submission to testing shall be required within thirty (30) days of sentencing for those defendants who do not become subject to the custody of the Department of Corrections, and submission to testing shall be done in accordance with Section 530.1 of Title 57 of the Oklahoma Statutes, for those defendants who enter the custody of the Department of Corrections as a result of sentencing. Convicted individuals who have previously submitted to DNA testing under this section and for whom a valid sample is on file in the OSBI DNA Offender Database at the time of their sentencing shall not be required to submit to additional testing.

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

J. Samples of blood for DNA testing required by subsection I of this section shall be taken by employees or contractors of the Department of Corrections. Said individuals shall be properly trained to collect blood samples. Persons collecting blood for DNA testing pursuant to this section shall be immune from civil liabilities arising from this activity. The Department of Corrections shall ensure the collection of samples are mailed to the Oklahoma State Bureau of Investigation within ten (10) days of the time the subject appears for testing or within ten (10) days of the date the subject comes into the custody of the Department of Corrections. The Department shall use sample kits provided by the OSBI and procedures promulgated by the OSBI. Persons subject to DNA testing who are not received at the Lexington Assessment and Reception Center shall be required to pay to the Department of Corrections a fee of Fifteen Dollars (\$15.00). Any fees collected pursuant to this ~~subparagraph~~ subsection shall be deposited in the Department of Corrections revolving account.

SECTION 3. AMENDATORY 37 O.S. 1991, Section 163.7, as last amended by Section 1 of Enrolled House Bill No. 2317 of the 2nd Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 163.7 In addition to the excise tax payable under Section 163.1 et seq. of this title, and in addition to the license required to be procured from the judge of the district court, the following permits shall be required and the following annual license taxes shall be payable to the Oklahoma Tax Commission with respect to low-point beer; provided, any such permit issued prior to ~~the effective date of this act~~ November 1, 1995, with respect to low-point beer shall be valid until it expires:

1. Manufacturers: Every manufacturer, located and doing business in this state, shall, before commencing the manufacture of low-point beer, obtain from the ~~Oklahoma~~ Tax Commission a permit to

engage in such manufacture. As a condition of the issuance of this permit such manufacturer shall pay to the Tax Commission a license tax of Five Hundred Dollars (\$500.00), which shall cover a one-year period commencing with the effective date of such permit. This permit must be renewed and the license tax paid annually thereafter at the expiration of the preceding permit and license tax period. Each and every other manufacturer of such beverages, coming within the provisions of Section 163.1 et seq. of this title, shall before selling or offering for sale such beverages within the State of Oklahoma, qualify with the Secretary of State of the State of Oklahoma for a permit to do business within the State of Oklahoma and, after so qualifying, shall obtain a permit or license from the ~~Oklahoma~~ Tax Commission and, in addition to any other license, taxes or fees, pay therefor a license tax of Five Hundred Dollars (\$500.00), which shall cover a one-year period commencing with the effective date of such permit. The ~~said~~ permit or license shall be for the privilege of doing business in Oklahoma as a manufacturer of low-point beer. The permit must be renewed and the license tax paid annually thereafter at the expiration of the preceding permit and license tax period. The receipt of payment of such permit or license shall be on file with the ~~Oklahoma~~ Tax Commission before such manufacturer shall sell, or offer for sale, such beverages to any person within the State of Oklahoma.

Every manufacturer, located and doing business outside the State of Oklahoma, desiring to pay the excise tax on sales to retail dealers, as provided for in Section 163.1 et seq. of this title, shall procure annually a permit and pay annually the license tax required of wholesalers, as provided for under this section. The payment of such fee shall be in addition to the payment of the license fee or tax in the sum of Five Hundred Dollars (\$500.00) as provided herein;

2. Wholesalers: Every wholesaler, located and doing business in this state, must annually obtain from the ~~Oklahoma~~ Tax Commission a permit to sell low-point beer. As a condition of the issuance of this permit such wholesaler shall pay to the Tax Commission a license fee of Two Hundred Fifty Dollars (\$250.00) which shall cover a one-year period commencing with the effective date of such permit. The permit must be renewed and the license tax paid annually thereafter at the expiration of the preceding permit and license tax period.

Every wholesaler, located and doing business outside the state desiring to pay the excise tax on sales to retail dealers, as provided for in Section 163.1 et seq. of this title, shall procure annually a permit and pay annually the license tax required of wholesalers located and doing business in this state.

Wholesalers within this state shall be required to secure an annual permit and must pay an annual license tax for each city or incorporated town from which deliveries of low-point beer are made to retail dealers.

Permits issued to wholesalers shall not be transferable from one person to another person but shall be transferable from one location to another location; and

3. Retail Dealers: Every retail dealer shall, before offering low-point beer for sale to the public, obtain from the ~~Oklahoma~~ Tax Commission a permit to engage in such sales, and shall pay to the ~~Oklahoma~~ Tax Commission, in advance of the issuance of ~~said~~ the permit, the license tax, as follows:

- a. each retail dealer who sells low-point beer, on draught and in original packages, for consumption on or off the premises, shall obtain a permit which shall be valid for a period of three (3) years and shall pay a license tax of Three Hundred Dollars (\$300.00),

- b. each retail dealer who sells such beverages in original packages only for consumption on or off the premises shall obtain a permit which shall be valid for a period of three (3) years and shall pay a license tax of One Hundred Fifty Dollars (\$150.00),
- c. each retail dealer who sells low-point beer purchased from a licensed manufacturer or licensed wholesaler for consumption on or off the premises and who sells low-point beer manufactured by ~~said~~ the retail dealer for consumption on or off the premises shall obtain a permit which shall be valid for a period of three (3) years and shall pay a license fee of Four Hundred Fifty Dollars (\$450.00). Provided, a retail dealer licensed pursuant to this subparagraph shall not manufacture more than five thousand (5,000) barrels of low-point beer per year. A retail dealer, that has obtained a permit pursuant to this subparagraph, may sell low-point beer manufactured by the retail dealer, at any of the retail dealer's places of business, as defined in Section 163.8 of this title, or any other place owned and operated by an entity which has common owners with the licensed dealer, regardless of which place of business brews the beverage. "Common owners" means that the owners at each place or entity together own more than fifty percent (50%) of the interest in each place or entity that has a permit issued pursuant to this subparagraph. A retail dealer, that has obtained a permit pursuant to this subparagraph, may sell low-point beer manufactured by the same retailer pursuant to special licenses issued pursuant to subparagraph d of this paragraph,

- d. special licenses, as provided, may be issued for the sum of Five Dollars (\$5.00) per day for each license; provided, that in the event any state or county fair association shall meet for more than five (5) days in any year, a special license for the sale of such beverages shall be issued for the sum of Twenty-five Dollars (\$25.00),
- e. each retail dealer who sells such beverages in original packages and not for consumption on the premises, shall obtain a permit which shall be valid for a period of three (3) years and shall pay a license tax of Thirty Dollars (\$30.00). It shall be unlawful for such off-premise dealer to allow any bottle, can, or original package to be broken or opened, or to allow any of such low-point beer to be consumed, in or upon the premises described in such permit, and
- f. ~~a permit issued prior to September 1, 1994, shall be valid until it expires. Upon expiration of such permit, the retail dealer to whom such permit was issued may obtain a renewal permit which shall be valid for three (3) years or until expiration of the dealer's sales tax permit, whichever is earlier, after which a renewal permit shall be valid for three (3) years. The manner and prorated fee for renewals of less than three (3) years shall be prescribed by the Oklahoma Tax Commission, and~~
- ~~g.~~ a retail dealer who has obtained a permit pursuant to this paragraph and who ceases to offer low-point beer for sale to the public shall be entitled to receive a refund of the permit fee from the ~~Oklahoma Tax~~ Commission prorated with respect to the amount of time



remaining until expiration of the permit, upon surrender of the permit to the Oklahoma Tax Commission. The manner and prorated refund shall be prescribed by the ~~Oklahoma~~ Tax Commission.

SECTION 4. AMENDATORY 47 O.S. 1991, Section 583, as last amended by Section 3 of Enrolled House Bill No. 2177 of the 2nd Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 583. A. 1. It shall be unlawful and constitute a misdemeanor for any person to engage in business as, or serve in the capacity of, or act as a used motor vehicle dealer, used motor vehicle salesperson, wholesale used motor vehicle dealer, manufactured home dealer, manufactured home installer, or manufactured home manufacturer selling directly to a licensed manufactured home dealer in this state without first obtaining a license or following other requirements therefor as provided in this section.

2. a. Any person engaging, acting, or serving in the capacity of a used motor vehicle dealer and/or a used motor vehicle salesperson, ~~or~~ a manufactured home dealer, a manufactured home installer, or a manufactured home manufacturer, or having more than one place where any such business, or combination of businesses, is carried on or conducted shall be required to obtain and hold a current license for each such business, in which engaged.

b. A used motor vehicle dealer's license shall authorize one person to sell without a salesperson's license in the event such person shall be the owner of a proprietorship, or the person designated as principal in the dealer's franchise or the managing officer or

one partner if no principal person is named in the franchise.

- c. A salesperson's license may not be issued under a wholesale used motor vehicle dealer's license.

3. Any person violating the provisions of this section shall, upon conviction, be fined not to exceed Five Hundred Dollars (\$500.00). A second or subsequent conviction shall be punished by a fine not to exceed One Thousand Dollars (\$1,000.00); provided that each day such unlicensed person violates this section shall constitute a separate offense, and any vehicle involved in a violation of this subsection shall be considered a separate offense.

B. 1. Applications for licenses required to be obtained under provisions of this act, Section 581 et seq. of this title, which creates the Oklahoma Used Motor Vehicle and Parts Commission shall be verified by the oath or affirmation of the applicant and shall be on forms prescribed by the Commission and furnished to the applicants, and shall contain such information as the Commission deems necessary to enable it to fully determine the qualifications and eligibility of the several applicants to receive the license or licenses applied for. The Commission shall require in the application, or otherwise, information relating to:

- a. the applicant's financial standing,
- b. the applicant's business integrity,
- c. whether the applicant has an established place of business and is engaged in the pursuit, avocation, or business for which a license, or licenses, is applied for,
- d. whether the applicant is able to properly conduct the business for which a license, or licenses, is applied for, and

e. such other pertinent information consistent with the safeguarding of the public interest and the public welfare.

2. All applications for license or licenses shall be accompanied by the appropriate fee or fees in accordance with the schedule hereinafter provided. In the event any application is denied and the license applied for is not issued, the entire license fee shall be returned to the applicant.

3. All bonds and licenses issued under the provisions of this act shall expire on December 31, following the date of issue and shall be nontransferable. All applications for renewal of licenses should be submitted by November 1 of each year, and licenses shall be issued by January 10. If applications have not been made for renewal of licenses, such licenses shall expire on December 31 and it shall be illegal for any person to represent himself or herself and act as a dealer thereafter. Tag agents shall be notified not to accept dealers' titles until such time as licenses have been issued.

4. A used motor vehicle salesperson's license shall permit the licensee to engage in the activities of a used motor vehicle salesperson. Salespersons shall not be allowed to sell vehicles unless applications, bonds, and fees are on file with the Commission and the motor vehicle salesperson's or temporary salesperson's license issued. A temporary salesperson's license, salesperson's renewal or reissue of salesperson's license shall be deemed to have been issued when the appropriate application, bond, and fee have been properly addressed and mailed to the Commission.

Dealers' payrolls and other evidence will be checked to ascertain that all salespersons for such dealers are licensed.

C. The schedule of license fees to be charged and received by the Commission for the licenses issued hereunder shall be as follows:

1. For each used motor vehicle dealer's license and each wholesale used motor vehicle dealer's license, Two Hundred Dollars (\$200.00). If a used motor vehicle dealer or a wholesale used motor vehicle dealer has once been licensed by the Commission in the classification for which he or she applies for a renewal of the license, the fee for each subsequent renewal shall be One Hundred Dollars (\$100.00); provided, if an applicant holds a license to conduct business as an automotive dismantler and parts recycler issued pursuant to Section 591.1 et seq. of this title, the initial fee shall be One Hundred Dollars (\$100.00) and the renewal fee shall be Seventy-five Dollars (\$75.00). If an applicant is applying simultaneously for a license under this paragraph and a license under paragraph 1 of Section 591.5 of this title, the initial application fee shall be One Hundred Fifty Dollars (\$150.00);

2. For a used motor vehicle dealer's license, for each place of business in addition to the principal place of business, Fifty Dollars (\$50.00);

3. For each used motor vehicle salesperson's license, Ten Dollars (\$10.00);

4. For each holder who possesses a valid new motor vehicle dealer's license from the Oklahoma Motor Vehicle Commission, One Hundred Dollars (\$100.00) shall be the initial fee for a used motor vehicle license and the fee for each subsequent renewal shall be One Hundred Dollars (\$100.00);

5. a. For each manufactured home dealer's license, and for each place of business in addition to the principal place of business, Two Hundred Dollars (\$200.00).

b. For each renewal of a manufactured home dealer's license, and renewal for each place of business in addition to the principal place of business, One Hundred Dollars (\$100.00);

6. a. For each manufactured home installer's license, Two Hundred Dollars (\$200.00).
- b. For each renewal of a manufactured home installer's license, Two Hundred Dollars (\$200.00); and
7. a. For each manufactured home manufacturer selling directly to a licensed manufactured home dealer in this state, Seven Hundred Fifty Dollars (\$750.00).
- b. For each renewal of a manufactured home manufacturer's license, Seven Hundred Fifty Dollars (\$750.00).

D. 1. The license issued to each used motor vehicle dealer, each wholesale used motor vehicle dealer, each manufactured home dealer, each manufactured home installer, and each manufactured home manufacturer shall specify the location of the place of business. If the business location is changed, the Oklahoma Used Motor Vehicle and Parts Commission shall be notified immediately of the change and the Commission may endorse the change of location on the license without charge. The license of each licensee shall be posted in a conspicuous place in the place or places of business of the licensee.

2. Every used motor vehicle salesperson shall have the license upon his or her person when engaged in business, and shall display same upon request. The name of the employer of the salesperson shall be stated on the license and if there is a change of employer, the license holder shall immediately mail the license to the Commission for its endorsement of the change thereon. There shall be no charge for endorsement of change of employer on the license or penalty for not having a license upon his or her person.

3. Every manufactured home installer shall have the license available for inspection at the primary place of business of the licensee. This license shall be valid for the licensee and all of the employees of the licensee. Any person who is not an employee of the licensee must obtain a separate manufactured home installer

license regardless of whether such person is acting in the capacity of a contractor or subcontractor.

E. 1. a. Each applicant for a used motor vehicle dealer's license shall procure and file with the Commission a good and sufficient bond in the amount of ~~Ten Thousand Dollars (\$10,000.00)~~. ~~Beginning November 1, 1996,~~ each Fifteen Thousand Dollars (\$15,000.00). Each new applicant for a used motor vehicle dealer's license for the purpose of conducting a used motor vehicle auction ~~or whose business will consist primarily of consignment sales which total One Million Dollars (\$1,000,000.00) or more in gross sales~~ shall procure and file with the Commission a good and sufficient bond in the amount of Fifty Thousand Dollars (\$50,000.00). ~~For purposes of this subsection, "primarily of consignment sales" means seventy-five percent (75%) of sales in number of vehicles sold within the previous twelve (12) months. A new dealer with no history of consignment sales shall be required to purchase a bond in the amount of Ten Thousand Dollars (\$10,000.00). In lieu of the bond, an applicant for a used motor vehicle dealer's license for the purpose of conducting a used motor vehicle auction which is restricted to a dealer-to-dealer transaction may obtain check and title insurance in an amount not less than the amount of the used motor vehicle auction bond.~~ An applicant who intends to conduct a used motor vehicle auction who provides proof that the applicant has check and title insurance in an amount not less than Fifty Thousand Dollars (\$50,000.00) shall only be required to have a bond in

the amount of Twenty-five Thousand Dollars  
(\$25,000.00).

- b. Each new applicant for a used motor vehicle dealer license for the purpose of conducting a used motor vehicle business which will consist primarily of non-auction consignment sales which are projected to equal Five Hundred Thousand Dollars (\$500,000.00) or more in gross annual sales shall procure and file with the Commission a good and sufficient bond in the amount of Fifty Thousand Dollars (\$50,000.00). The Commission shall prescribe by rule the method of operation of the non-auction consignment dealer in order to properly protect the interests of all parties to the transaction and to provide sanctions against dealers who fail to comply with the rules.
- c. Each applicant for a wholesale used motor vehicle dealer's license shall procure and file with the Commission a good and sufficient bond in the amount of Twenty-five Thousand Dollars (\$25,000.00).
- ~~e.~~ d. Each applicant for a manufactured home dealer's license shall procure and file with the Commission a good and sufficient bond in the amount of Thirty Thousand Dollars (\$30,000.00).
- ~~d.~~ e. Each manufactured home manufacturing facility selling directly to a licensed manufactured home dealer in this state shall procure and file with the Commission a good and sufficient bond in the amount of Thirty Thousand Dollars (\$30,000.00). In addition to all other conditions and requirements set forth herein, the bond shall require the availability of prompt and full warranty service by the manufacturer to comply with all warranties expressed or implied in connection

with each manufactured home which is manufactured for resale in this state.

~~e.~~ f. The bond shall be approved as to form by the Attorney General and conditioned that the applicant shall not practice fraud, make any fraudulent representation, or violate any of the provisions of this act in the conduct of the business for which the applicant is licensed. One of the purposes of the bond is to provide reimbursement for any loss or damage suffered by any person by reason of issuance of a certificate of title by a used motor vehicle dealer, a wholesale used motor vehicle dealer, or a manufactured home dealer.

2. If a motor vehicle dealer has a valid license issued by the Oklahoma Motor Vehicle Commission, then the bond as required by this subsection shall be waived.

3. Each applicant for a used motor vehicle salesperson's license shall procure and file with the Commission a good and sufficient bond in the amount of One Thousand Dollars (\$1,000.00). The bond shall be approved as to form by the Attorney General and conditioned that the applicant shall perform duties as a used motor vehicle salesperson without fraud or fraudulent representation and without violating any provisions of this act.

4. The bonds as required by this section shall be maintained throughout the period of licensure. Should the bond be canceled for any reason, the license shall be revoked as of the date of cancellation unless a new bond is furnished prior to such date.

F. Any used motor vehicle dealer or wholesale used motor vehicle dealer is required to furnish and keep in force a minimum of Twenty-five Thousand Dollars (\$25,000.00) of single liability insurance coverage on all vehicles offered for sale or used in any other capacity in demonstrating or utilizing the streets and



roadways in accordance with the financial responsibility laws of this state.

G. Any manufactured home dealer is required to furnish and keep in force a minimum of One Hundred Thousand Dollars (\$100,000.00) of garage liability or general liability with products and completed operations insurance coverage.

SECTION 5. AMENDATORY 59 O.S. 1991, Section 698.2, as last amended by Section 7 of Enrolled House Bill No. 2353 of the 2nd Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 698.2 As used in the Oklahoma Veterinary Practice Act:

1. "Board" means the State Board of Veterinary Medical Examiners;
2. "Animal" means any animal other than humans and includes, but is not limited to, fowl, fish, birds and reptiles, wild or domestic, living or dead;
3. "Veterinarian" means a person who has received a degree in veterinary medicine or its equivalent from a school of veterinary medicine;
4. "Licensed veterinarian" means any veterinarian who holds an active license to practice veterinary medicine in this state;
5. "School of veterinary medicine" means any veterinary college or division of a university or college that offers the degree of doctor of veterinary medicine or its equivalent, which conforms to the standards required for accreditation by the American Veterinary Medical Association and which is recognized and approved by the Board;
6. "Veterinary technician" means a person who has graduated from a school of animal technology, or its equivalent, which conforms to the standards required for accreditation by the American Veterinary Medical Association and which is recognized and approved

by the Board, and who has been certified by the Board as qualified to practice under the direct supervision of a licensed veterinarian;

7. "Direct supervision" means:

- a. directions have been given to a veterinary technician, nurse, laboratory technician, intern, veterinary assistant or other employee for medical care following the examination of an animal by the licensed veterinarian responsible for the professional care of the animal, or
- b. that, under certain circumstances following the examination of an animal by a licensed veterinarian responsible for the professional care of the animal, the presence of the licensed veterinarian on the premises in an animal hospital setting or in the same general area in a range setting is required after directions have been given to a veterinarian who has a certificate issued pursuant to Section 698.8 of this title;

8. "License" means authorization to practice veterinary medicine granted by the Board to an individual found by the Board to meet certain requirements pursuant to the Oklahoma Veterinary Practice Act or any other applicable statutes;

9. "Certificate" means authorization to practice veterinary medicine with certain limitations or restrictions on that practice, set by the Board or authorization to perform certain enumerated functions peripheral to the practice of veterinary medicine as set by the Board;

10. "Veterinarian-client-patient relationship" means when:

- a. the licensed veterinarian has assumed the responsibility for making medical judgments regarding the health of an animal or animals and the need for medical treatment, and the client, owner or other

caretaker has agreed to follow the instructions of the licensed veterinarian; and

b. there is sufficient knowledge of the animal or animals by the licensed veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal or animals in that:

(1) the licensed veterinarian has recently seen or is personally acquainted with the keeping and care of the animal or animals, or

(2) by medically necessary and timely visits to the premises where the animal or animals are kept or both, and

c. the licensed veterinarian is readily available for follow-up in case of adverse reactions or failure of the regimen of therapy, or has arranged for emergency medical coverage, and

d. would conform to applicable federal law and regulations;

11. "Veterinary premises" means any facility where the practice of veterinary medicine occurs, including, but not limited to, a mobile unit, mobile clinic, outpatient clinic, satellite clinic, public service outreach of a veterinary facility, or veterinary hospital or clinic. The term "veterinary premises" shall not include the premises of a client of a licensed veterinarian or research facility;

12. "Veterinary prescription drugs" means such prescription items as are in the possession of a person regularly and lawfully engaged in the manufacture, transportation, storage, or wholesale or retail distribution of veterinary drugs and the federal Food and Drug Administration-approved human drugs for animals which because of their toxicity or other potential for harmful effects, or method of use, or the collateral measures necessary for use, are labeled by

the manufacturer or distributor in compliance with federal law and regulations to be sold only to or on the prescription order or under the supervision of a licensed veterinarian for use in the course of professional practice. Veterinary prescription drugs shall not include over-the-counter products for which adequate directions for lay use can be written.

13. "ECFVG certificate" means a certificate issued by the American Veterinary Medical Association Education Commission for Foreign Veterinary Graduates, indicating that the holder has demonstrated knowledge and skill equivalent to that possessed by a graduate of an accredited or approved college of veterinary medicine;

14. "Executive Director" means the Executive Director of the State Board of Veterinary Medical Examiners or the authorized representative of such official;

15. "Telemedicine" shall mean the transmission of diagnostic images such as, but not limited to, radiographs, ultrasound, cytology, endoscopy, photographs and case information over ordinary or cellular phone lines to a licensed veterinarian or board-certified medical specialist for the purpose of consulting regarding case management with the primary care licensed veterinarian who transmits the cases;

16. "Person" means any individual, firm, partnership, association, joint venture, cooperative, corporation, or any other group or combination acting in concert, and whether or not acting as a principal, trustee, fiduciary, receiver, or as any other kind of legal or personal representative, or as the successor in interest, assignee, agent, factor, servant, employee, director, officer, fictitious name certificate, or any other representative of such person;

17. "Food animal" means any mammalian, poultry, fowl, fish, or other animal that is raised primarily for human food consumption;

18. "Surgery" means the branch of veterinary science conducted under elective or emergency circumstances, which treats diseases, injuries and deformities by manual or operative methods including, but not limited to, cosmetic, reconstructive, ophthalmic, orthopedic, vascular, thoracic, and obstetric procedures. The provisions in Section 698.12 of this title shall not be construed as surgery;

19. "Abandonment" means to forsake entirely or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner, or the owner's agent. Abandonment shall constitute the relinquishment of all rights and claims by the owner to an animal; ~~and~~

20. "Animal chiropractic diagnosis and treatment" means treatment that includes vertebral subluxation complex (vcs) and spinal manipulation of nonhuman vertebrates. The term "animal chiropractic diagnosis and treatment" shall not be construed to allow the:

- a. use of x-rays,
- b. performing of surgery,
- c. dispensing or administering of medications, or
- d. performance of traditional veterinary care; and

21. "Animal euthanasia technician" means an employee of a law enforcement agency, an animal control agency, or animal shelter that is recognized and approved by the Board, who is certified by the Board and trained to administer sodium pentobarbital to euthanize injured, sick, homeless or unwanted domestic pets and other animals.

SECTION 6. AMENDATORY 59 O.S. 1991, Section 698.7, as last amended by Section 5 of Enrolled House Bill No. 2353 of the 2nd Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 698.7 The State Board of Veterinary Medical Examiners shall have the powers and it shall also be its duty to regulate the

practice of veterinary medicine. In addition to any other powers placed on it by the Oklahoma Veterinary Practice Act or as otherwise provided by law, the Board shall have the power and duty to:

1. a. set standards for licensure or certification by examination and develop such examinations as will provide assurance of competency to practice, and  
b. employ or enter into agreements with organizations or agencies to provide examinations acceptable to the Board or employ or enter into agreements with organizations or agencies to provide administration, preparation or scoring of examinations;
2. Set fees;
3. Prescribe the time, place, method, manner, scope and subjects of examination for licensure;
4. Prepare or select, conduct or direct the conduct of, set minimum requirements for, and assure security of licensing and other required examinations;
5. a. issue or deny licenses and certificates and renewals thereof,  
b. acquire information about and evaluate the professional education and training of applicants for licensure or certification; and accept or deny applications for licensure, certification or renewal of either licensure or certification based on the evaluation of information relating to applicant fitness, performance or competency to practice,  
c. determine which professional schools, colleges, universities, training institutions and educational programs are acceptable in connection with licensure pursuant to the Oklahoma Veterinary Practice Act, and accept the approval of such facilities and programs by

American-Veterinary-Medical-Association-accredited institutions in the United States and Canada,

- d. require supporting documentation or other acceptable verifying evidence for any information provided the Board by an applicant for licensure or certification, and
- e. require information on an applicant's fitness, qualification and previous professional record and performance from recognized data sources including, but not limited to, other licensing and disciplinary authorities of other jurisdictions, professional education and training institutions, liability insurers, animal health care institutions and law enforcement agencies;

6. Develop and use applications and other necessary forms and related procedures for purposes of the Oklahoma Veterinary Practice Act;

- 7. a. review and investigate complaints and adverse information about licensees and certificate holders,
- b. conduct hearings in accordance with the Oklahoma Veterinary Practice Act and the Administrative Procedures Act, and
- c. adjudicate matters that come before the Board for judgment pursuant to the Oklahoma Veterinary Practice Act upon clear and convincing evidence and issue final decisions on such matters to discipline licensees and certificate holders;

- 8. a. impose sanctions, deny licenses and certificates and renewals thereof, levy reimbursement costs, seek appropriate administrative, civil or criminal penalties or any combination of these against those who violate examination security, who attempt to or

- who do obtain licensure or certification by fraud, who knowingly assist in illegal activities, or who aid and abet the illegal practice of veterinary medicine,
- b. review and investigate complaints and adverse information about licensees and certificate holders,
  - c. discipline licensees and certificate holders,
  - d. institute proceedings in courts of competent jurisdiction to enforce Board orders and provisions of the Oklahoma Veterinary Practice Act,
  - e.
    - (1) establish mechanisms for dealing with licensees and certificate holders who abuse or are dependent on or addicted to alcohol or other chemical substances, and enter into agreements, at its discretion, with professional organizations whose relevant procedures and techniques it has evaluated and approved for their cooperation or participation in the rehabilitation of the licensee or certificate holder,
    - (2) establish by rules cooperation with other professional organizations for the identification and monitoring of licensees and certificate holders in treatment who are chemically dependent or addicted, and
  - f. issue conditional, restricted or otherwise circumscribed modifications to licensure or certification as determined to be appropriate by due process procedures and summarily suspend a license if the Board has cause to believe by clear and convincing evidence such action is required to protect public or animal health and safety or to prevent continuation of incompetent practices;



9. Promulgate rules of professional conduct and require all licensees and certificate holders to practice in accordance therewith;

10. Act to halt the unlicensed or illegal practice of veterinary medicine and seek administrative, criminal and civil penalties against those engaged in such practice;

11. Establish appropriate fees and charges to ensure active and effective pursuit of Board responsibilities;

12. Employ, direct, reimburse, evaluate and dismiss staff in accordance with state procedures;

13. Establish policies for Board operations;

14. Respond to legislative inquiry regarding those changes in, or amendments to, the Oklahoma Veterinary Practice Act;

15. Act on its own motion in disciplinary matters, administer oaths, issue notices, issue subpoenas in the name of the State of Oklahoma, including subpoenas for client and animal records, hold hearings, institute court proceedings for contempt or to compel testimony or obedience to its orders and subpoenas, take evidentiary depositions and perform such other acts as are reasonable and necessary under law to carry out its duties;

16. Use clear and convincing evidence as the standard of proof and issue final decisions when acting as trier of fact in the performance of its adjudicatory duties;

17. Determine and direct Board operating, administrative, personnel and budget policies and procedures in accordance with applicable statutes;

18. Promulgate uniform rules such as may be necessary for carrying out and enforcing the provisions of the Oklahoma Veterinary Practice Act and such as in its discretion may be necessary to protect the health, safety and welfare of the public;

19. Determine continuing education requirements;

20. Establish minimum standards for veterinary premises;

21. Establish standards for veterinary labeling and dispensing of veterinary prescription drugs and federal Food and Drug Administration-approved human drugs for animals which would conform to current applicable state and federal law and regulations;

22. Promulgate rules such as may be necessary for carrying out and enforcing provisions relating to certification of animal euthanasia technicians and approval of drugs to be used for euthanasia of animals in an animal shelter pursuant to the requirements of Section 502 of Title 4 of the Oklahoma Statutes; ~~and~~

23. Establish standards for animal chiropractic diagnosis and treatment. The standards shall include but not be limited to a requirement that a veterinarian who holds himself or herself out to the public as certified to engage in animal chiropractic diagnosis and treatment shall:

- a. carry at least One Million Dollars (\$1,000,000.00) of additional malpractice coverage to perform animal chiropractic diagnosis and treatment, and
- b. have appropriate training in animal chiropractic diagnosis and treatment. The Veterinary Examining Board shall have the authority to establish educational criteria for certification standards in animal chiropractic diagnosis and treatment. The Veterinary Examining Board shall work in conjunction with the Board of Chiropractic Examiners to establish comparable standards for the practice of animal chiropractic diagnosis and treatment for both medical professions within thirty (30) days after the effective date of this act. The Board shall certify any licensed veterinarian wishing to engage in animal chiropractic diagnosis and treatment who meets the standards established by the Board pursuant to this paragraph. Upon request, the Board shall make

available to the public a list of licensed  
veterinarians so certified; and

24. Perform such other duties and exercise such other powers as the provisions and enforcement of the Oklahoma Veterinary Practice Act may require.

SECTION 7. AMENDATORY 70 O.S. 1991, Section 5-115, as last amended by Section 15 of Enrolled Senate Bill No. 1390 of the 2nd Session of the 47th Oklahoma Legislature, is amended to read as follows:

Section 5-115. A. Unless the context clearly shows otherwise, the term "treasurer", as used in this section, includes a county treasurer acting as the treasurer of a school district pursuant to the provisions of Section 5-114 of this title. The treasurer so appointed shall execute, before entering upon the duties of the office of the treasurer, a surety bond in an amount which it is estimated by the board of education the treasurer will have on hand at any one time during the current year, and the amount of securities held as investments shall not be considered. The board of education is empowered to require the treasurer to increase or decrease the bond of the treasurer as the amount of funds on hand may require. Provided, the bond of a school district shall not, in any event, be required to be in an amount greater than that of the county treasurer of the county. The premium on the bond shall be paid by the board of education out of district funds. Provided, however, the treasurer of such district shall require the depository wherein school district funds are deposited to insure or guarantee the deposit by proper securities, which shall be of the same class of securities as are required to insure deposits of county treasurers of the various counties, and the securities shall be pledged, taken and kept in the manner provided by Sections 8 through 14 of this act.

B. In all districts which are permitted by law to select a local treasurer, the county treasurer shall act as treasurer thereof until such time as a local treasurer shall be appointed and has executed the surety bond required by this section. In no instance in which the county treasurer is the treasurer of any school district shall any additional bond be required, but the official bond of the county treasurer shall stand for any and all funds and securities coming into the hands of the county treasurer.

C. The local treasurer of a district, when required by the board of education, shall prepare and submit in writing a report of the condition of the finances of the district and shall produce at any meeting of the board or to any committee appointed for the purpose of examining the accounts of the treasurer all books and papers pertaining to the office of the treasurer. Upon failure to make reports as provided for herein or as may otherwise be required by law, the board may at any regular or special meeting thereof summarily suspend the treasurer, and while so suspended the treasurer shall perform no act pertaining to the office of the treasurer. Such suspension shall continue until ended by order of the board or by judgment of a court of competent jurisdiction.

D. The local treasurer of a school district shall keep a separate cash ledger for each fund in the custody of the treasurer. The local treasurer shall enter each collection and disbursement in the cash ledger of the applicable fund by recording the date and classification of each transaction and such other information as may be deemed desirable. Additional ledgers shall also be maintained to record the investments made from each fund. Such investment ledgers shall disclose the date, description and principal amount paid for each investment purchased and the date and principal amount received for each investment liquidated.

E. Upon suspension by the board, the treasurer shall immediately turn over to the board of education or to the acting

treasurer if one has been appointed by the board all books and papers and other property pertaining to the office of the treasurer.

F. Except as otherwise provided by law, no treasurer of any district shall pay out school district funds in the care of the treasurer except upon warrants signed by the proper school district officials authorized by the law to sign such warrants, provided, this restriction shall not apply to sinking funds or to the investment of school district funds. Authorized sinking fund payments and payment for investments or receipt of liquidated investments may be made by check, wire transfer or other instrument or method through the Federal Reserve System.

G. The board of education shall, each month, set aside funds to an operating account and to an investment account. Investments by the treasurer shall be made in accordance with a written policy adopted by the board of education. The written investment policy shall address liquidity, diversification, safety of principal, yield, maturity, quality of the instrument, and capability of investment management. Acting within the investment policy, the treasurer shall place primary emphasis on safety and liquidity in the investment of funds. Taking into account the need to use sound investment judgment, school districts shall, to the extent practicable, use competitive bids when they purchase direct obligations of the United States Government or other obligations of the United States Government, its agencies or instrumentalities. Such system shall be designed to maximize yield within each class of investment instrument, consistent with the safety of the funds invested. The board of education must review the investment performance of the treasurer on a regular basis and no less than each month. The treasurer of every school district shall invest the full amount of the investment account in:

1. Direct obligations of the United States Government to the payment of which the full faith and credit of the Government of the

United States is pledged; provided, a treasurer of a school district who has completed the program pursuant to the provisions of subsection H of this section may invest funds in the investment account in other obligations of the United States Government, its agencies or instrumentalities;

2. Obligations to the payment of which the full faith and credit of this state is pledged;

3. Certificates of deposits of banks when such certificates of deposits are secured by acceptable collateral as in the deposit of other public monies;

4. Savings accounts or savings certificates of savings and loan associations to the extent that such accounts or certificates are fully insured by the Federal Savings and Loan Insurance Corporation. Provided, that the income received from the investments may be placed in the general fund of the governmental subdivision to be used for general governmental operations;

5. Repurchase agreements that have underlying collateral consisting of those items specified in paragraphs 1 and 2 of this subsection including obligations of the United States, its agencies and instrumentalities, and where the collateral has been deposited with a trustee or custodian bank in an irrevocable trust or escrow account established for such purposes;

6. County, municipal or school district direct debt obligations for which an ad valorem tax may be levied or bond and revenue anticipation notes, money judgments against such county, municipality or school district ordered by a court of record or bonds or bond and revenue anticipation notes issued by a public trust for which such county, municipality or school district is a beneficiary thereof. All collateral pledged to secure public funds shall be valued at no more than market value. The income received from ~~that~~ an investment may be placed in the general fund of the governmental subdivision to be used for general governmental

operations, the sinking fund, the building fund, or the fund from which the investment was made;

7. Money market mutual funds regulated by the Securities and Exchange Commission and which investments consist of obligations of the United States, its agencies and instrumentalities, and investments in those items and those restrictions specified in paragraphs 1 through 6 of this subsection;

8. Warrants, bonds or judgments of the school district; or

9. Qualified pooled investment programs, the investments of which consist of those items specified in paragraphs 1 through 8 of this subsection, as well as obligations of the United States agencies and instrumentalities, regardless of the size of the district's budget. To be qualified, a pooled investment program for school funds must be governed through an interlocal cooperative agreement formed pursuant to Section 5-117b of this title, and the program must competitively select its investment advisors and other professionals. Any pooled investment program used must be approved by the board of education.

H. The board of education is hereby empowered to require the treasurer to satisfactorily complete an investment education program approved by the State Board of Education and the State Board of Vocational and Technical Education. Such program shall be designed to allow treasurers to make informed decisions regarding the safety, return, liquidity, costs and benefits of various investment options allowed under this section.

I. The income received on an investment may be placed in the fund from which the investment was made, the general fund, the building fund, or the sinking fund.

SECTION 8. REPEALER 47 O.S. 1991, Section 583, as last amended by Section 1 of Enrolled House Bill No. 2553 of the 2nd Session of the 47th Oklahoma Legislature, 47 O.S. 1991, Section 583, as last amended by Section 1 of Enrolled Senate Bill No. 1233 of the

2nd Session of the 47th Oklahoma Legislature, and 70 O.S. 1991, Section 5-115, as last amended by Section 1 of Enrolled Senate Bill No. 1157 of the 2nd Session of the 47th Oklahoma Legislature, are hereby repealed.

SECTION 9. REPEALER 21 O.S. 1991, Section 1123, as last amended by Section 1 of Enrolled House Bill No. 2349 of the 2nd Session of the 47th Oklahoma Legislature, 37 O.S. 1991, Section 163.7, as last amended by Section 1 of Enrolled Senate Bill No. 1218 of the 2nd Session of the 47th Oklahoma Legislature, 59 O.S. 1991, Section 698.2, as last amended by Section 4 of Enrolled Senate Bill No. 838, and 59 O.S. 1991, Section 698.7, as last amended by Section 5 of Enrolled Senate Bill No. 838, are hereby repealed.

SECTION 10. REPEALER 22 O.S. 1991, Section 991a, as last amended by Section 3 of Enrolled House Bill No. 2209 of the 2nd Session of the 47th Oklahoma Legislature, is hereby repealed.

SECTION 11. Sections 4, 7 and 8 of this act shall become effective July 1, 2000.

SECTION 12. Sections 1, 3, 5, 6 and 9 of this act shall become effective November 1, 2000.

SECTION 13. 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.

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