

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
SENATE BILL NO. 1964

By: Corn of the Senate

and

Blackwell and Billy of the  
House

COMMITTEE SUBSTITUTE

[ sentencing - zone of safety - sentencing powers of  
the court - Sex Offenders Registration Act -  
residency restriction - numeric risk level -  
codification - effective date -  
emergency ]

SECTION 1. AMENDATORY Section 3, Chapter 455, O.S.L.  
2002 (21 O.S. Supp. 2005, Section 51.1a), is amended to read as  
follows:

Section 51.1a Any person convicted of rape in the first degree,  
forcible sodomy, lewd molestation, lewd molestation of a child under  
twelve (12) years of age as provided in Section 3 of this act,  
solicitation of a minor as provided in subsection B of Section 1021  
of this title, or sexual abuse of a child after having been  
convicted of either rape in the first degree, forcible sodomy, lewd  
molestation, lewd molestation of a child under twelve (12) years of  
age as provided in Section 3 of this act, solicitation of a minor as  
provided in subsection B of Section 1021 of this title, or sexual  
abuse of a child shall be sentenced to life without parole.

SECTION 2. AMENDATORY 21 O.S. 2001, Section 1123, as last amended by Section 1, Chapter 159, O.S.L. 2003 (21 O.S. Supp. 2005, Section 1123), is amended to read as follows:

Section 1123. A. It is a felony for any person to knowingly and intentionally:

1. Make any oral, written or electronically or computer-generated lewd or indecent proposal to any child under sixteen (16) years of age, or other individual the person believes to be a 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~~ Touch, maul, or feel the body or private parts of any child ~~under~~ from twelve (12) to 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, or other individual the person believes to be a 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~~ from twelve (12) to 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:

- a. urinate or defecate upon a child under sixteen (16) years of age,
- b. ejaculate upon or in the presence of a child,
- c. cause, expose, force or require a child to look upon the body or private parts of another person,

- d. force or require any child under sixteen (16) years of age or other individual the person believes to be a child under sixteen (16) years of age, to view any obscene materials, child pornography or materials deemed harmful to minors as such terms are defined by Sections 1024.1 and 1040.75 of this title,
- e. cause, expose, force or require a child to look upon sexual acts performed in the presence of the child, or
- f. force or require a child to touch or feel the body or private parts of said child or another person.

Any person convicted of any violation of this subsection ~~A of this section~~ shall be punished by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections for not less than ~~one (1) year~~ ten (10) years nor more than ~~twenty (20)~~ twenty-five (25) years. The provisions of this ~~section~~ subsection 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 this subsection ~~A of this section~~ shall be guilty of a felony punishable as provided in this subsection and shall not be eligible for probation, suspended or deferred sentence. Any person convicted of a third or subsequent violation of this subsection ~~A of this section~~ shall be guilty of a felony punishable by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections 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. Any person convicted of a violation of this subsection after having been twice convicted of a violation of subsection A of Section 1114 of this title, Section 888 of this title, sexual abuse of a child pursuant to Section 7115 of Title 10 of the Oklahoma Statutes, or of any attempt to commit any of these offenses or any combination of convictions pursuant to these sections shall be punished by imprisonment in the ~~State~~

~~Penitentiary~~ custody of the Department of Corrections for a term of life or life without parole.

B. It shall be unlawful for any person to lewdly or lasciviously look upon any child under sixteen (16) years of age in any indecent manner or in any manner relating to sexual matters or sexual interest. Any person convicted of violating the provisions of this subsection shall be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for not less than one (1) year nor more than five (5) years.

C. 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.

~~E.~~ D. Any person convicted of ~~any~~ a violation of ~~this~~ subsection C of this section shall be deemed guilty of a felony and shall be punished by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections for not more than ~~five (5)~~ ten (10) years.

~~D.~~ E. The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense pursuant to this section shall not constitute a defense to a prosecution under this section.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1123.1 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. It is a felony for any person to knowingly and intentionally:

1. Touch, maul, or feel the body or private parts of any child under twelve (12) years of age in any lewd or lascivious manner by any acts against public decency and morality, as defined by law, or in any manner relating to sexual matters or sexual interest; or

2. In a lewd or lascivious manner and for the purpose of sexual gratification, force or require any child under twelve (12) years of age to touch or feel the body or private parts of the child or another person.

B. Any person convicted of any violation of subsection A of this section shall be punished by imprisonment in the custody of the Department of Corrections for not less than fifteen (15) years. Any person convicted of a second or subsequent violation of subsection A of this section shall be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a term of life or life without parole.

SECTION 4. AMENDATORY Section 1, Chapter 209, O.S.L. 2003 (21 O.S. Supp. 2005, Section 1125), is amended to read as follows:

Section 1125. A. A zone of safety is hereby created around elementary and junior high schools, licensed child care facilities, ~~and playgrounds,~~ and any school bus stop that is on an established transportation route of a school district. A person is prohibited from being within three hundred (300) feet of any elementary or junior high school, licensed child care facility, ~~or playground,~~ or school bus stop that is on an established transportation route of a school district if the person has been convicted of lewd molestation, rape or sodomy in this state or any similar offense of another state or the United States and the victim was a child under the age of thirteen (13) years.

B. A person convicted of a first offense of this section shall be guilty of a misdemeanor punishable by a fine not exceeding Two Thousand Five Hundred Dollars (\$2,500.00). A person convicted of a second or subsequent offense of this section shall be guilty of a felony. This proscription of conduct shall not modify or remove any restrictions currently applicable to the person by court order, conditions of probation or as provided by other provision of law.

C. 1. A person shall be exempt from the prohibition of this section regarding a school or a licensed child care facility only under the following circumstances:

- a. the person is the custodial parent or legal guardian of a child who is an enrolled student at the school or child care facility, and
- b. the person is enrolling, delivering or retrieving such child at the school or child care facility during regular school or facility hours or for school-sanctioned or child care facility-sanctioned extracurricular activities.

2. This exception shall not be construed to modify or remove any restrictions applicable to the person by court order, conditions of probation, or as provided by other provision of law.

D. For purpose of prosecution of any violation of this section, the provisions of Section 51.1 of ~~Title 21 of the Oklahoma Statutes~~ this title shall not apply.

SECTION 5. AMENDATORY 21 O.S. 2001, Section 1835, is amended to read as follows:

Section 1835. A. ~~Whoever~~ Except as otherwise provided by law, ~~whoever~~ shall willfully or maliciously enter the ~~garden, yard,~~ pasture or field property of another ~~after being expressly forbidden to do so or~~ without permission by the owner or lawful occupant thereof ~~when such property is posted~~ shall be deemed guilty of trespass and upon conviction thereof shall be fined in any sum not

to exceed Two Hundred Fifty Dollars (\$250.00); ~~provided, that this.~~  
This provision shall not apply to registered the following:

1. Any peace officer, as defined in Section 99 of this title,  
in the performance of his or her duties;

2. Any volunteer, full-time, or part-time firefighter, when  
performing duties for a fire department;

3. Emergency medical personnel engaged in the rendering of  
medical assistance to an individual;

4. Any federal, state, or local government employee or public  
utility employee engaged in addressing an emergency that presents an  
imminent danger to human health, safety, or the environment; or

5. Any federal, state, or local government employee or public  
utility employee in the performance of his or her duties.

B. The following persons may enter the property of another,  
unless forbidden to do so by the owner or lawful occupier, either  
orally or in writing:

1. Registered land surveyors and registered professional  
engineers for the purpose of land surveying in the performance of  
their professional services; and, provided further, that anyone

2. Utility employees or contractors, while acting in the course  
and scope of his or her employment;

3. The owner of domestic livestock or other animals or his or  
her employees, while in the sole process of retrieving the domestic  
livestock or other animals;

4. Any person making a delivery, selling any product or  
service, conducting a survey or poll, or other person who has a  
legitimate reason for entering the property and who, immediately  
upon entry, seeks to conduct said business; or

5. Any candidate for political office or any person working on  
behalf of a candidate for a political office.

C. Anyone who willfully or maliciously enters any such ~~garden,~~  
yard, pasture or field property, and therein commits or attempts to

commit waste, theft, or damage shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00), or by confinement in the county jail for not less than thirty (30) days nor more than six (6) months, or both such fine and imprisonment. ~~For purposes of this section, "posted" means exhibiting signs to read as follows: "PROPERTY RESTRICTED"; "POSTED - KEEP OUT"; "KEEP OUT"; "NO TRESPASSING"; or similar signs which are displayed. Property that is fenced or not fenced must have such signs placed conspicuously and at all places where entry to the property is normally expected.~~

~~B.~~ D. No provisions of this act shall ~~conflict with~~ prohibit acts that are permitted pursuant to Section 5-202 or 6-304 of Title 29 of the Oklahoma Statutes.

~~C.~~ Whoever shall willfully enter the pecan grove of another without the prior consent of the owner or occupant thereof to so do shall be deemed guilty of trespass and upon conviction thereof shall be fined in any sum not to exceed Twenty-five Dollars (\$25.00); provided, that anyone who willfully enters any such pecan grove and therein commits or attempts to commit waste, theft, or damage shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not more than Five Hundred Dollars (\$500.00), or by confinement in the county jail for not less than thirty (30) days nor more than six (6) months, or by both such fine and imprisonment.

~~D.~~ E. Whoever shall willfully or maliciously enter upon property owned or managed by the Grand River Dam Authority without permission when such property is posted shall be deemed guilty of misdemeanor trespass and upon conviction thereof shall be fined in any sum not to exceed Two Hundred Fifty Dollars (\$250.00); provided, that this provision shall not apply to registered land surveyors and registered professional engineers for the purpose of land surveying in the performance of their professional services; and, provided

further, that anyone who willfully or maliciously enters upon property owned or managed by the Grand River Dam Authority without permission and therein commits or attempts to commit waste, theft, or damage shall be deemed guilty of misdemeanor trespass, and upon conviction thereof shall be fined in any sum not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00), or by confinement in the county jail for not less than thirty (30) days nor more than six (6) months, or both such fine and imprisonment. For purposes of this section, "posted" means exhibiting signs to read as follows: "PROPERTY RESTRICTED"; "POSTED - KEEP OUT"; "KEEP OUT"; "NO TRESPASSING"; or similar signs which are displayed. Property that is fenced or not fenced must have such signs placed conspicuously and at all places where entry to the property is normally expected.

F. It shall be an affirmative defense to prosecution under this section that the accused had express, legal, or implied authority to be on the property.

SECTION 6. AMENDATORY 22 O.S. 2001, Section 988.18, as amended by Section 6, Chapter 165, O.S.L. 2002 (22 O.S. Supp. 2005, Section 988.18), is amended to read as follows:

Section 988.18 A. On and after March 1, 2000, for each felony offender considered for any community punishment pursuant to the Oklahoma Community Sentencing Act, the judge shall, prior to sentencing, order an assessment and evaluation of the defendant as required by law.

B. The Level of Services Inventory (LSI), or another assessment and evaluation instrument designed to predict risk to recidivate approved by the Department of Corrections, shall be required to determine eligibility for any offender sentenced pursuant to the Oklahoma Community Sentencing Act. The completed assessment accompanied by a written supervision plan shall be presented to and reviewed by the court prior to determining any punishment for the

offense. The purpose of the assessment shall be to identify the extent of the ~~defendant's~~ deficiencies and pro-social needs of the defendant, the potential risk to commit additional offenses that threaten public safety, and the appropriateness of various community punishments.

C. Upon order of the court, the defendant shall be required to submit to the LSI or other approved assessment which shall be administered and scored by an appropriately trained person pursuant to a service agreement with the local community sentencing system. Any defendant lacking sufficient skills to comprehend or otherwise participate in the assessment and evaluation shall have appropriate assistance. If it is determined that the offender cannot be adequately evaluated using the LSI or another approved assessment, the offender shall be deemed ineligible for any community services pursuant to the Oklahoma Community Sentencing Act, and shall be sentenced as prescribed by law for the offense.

D. The willful failure or refusal of the defendant to be assessed and evaluated by using the LSI or another approved assessment shall preclude the defendant from eligibility for any community punishment.

E. The completed LSI, or other approved assessment, shall include a written supervision plan and identify an appropriate community punishment, if any, when the offender is considered eligible for community punishments based upon the ~~offender's~~ completed risk/need score from the LSI assessment of the offender. Any offender scoring outside the moderate or high range on the LSI assessment shall not be eligible for any state-funded community punishments.

F. The court is not required to sentence any offender to a community punishment regardless of an eligible score on the LSI. Any felony offender scoring in the low risk/need levels on the LSI may be sentenced to a suspended sentence with minimal, if any,

conditions of the sentence to be paid by the offender. If the LSI or another assessment has been conducted, the evaluation report shall accompany the judgment and sentence.

SECTION 7. AMENDATORY 22 O.S. 2001, Section 991a, as last amended by Section 3 of Enrolled House Bill No. 3139 of the 2nd Session of the 50th Oklahoma Legislature, is amended to read as follows:

Section 991a. A. Except as otherwise provided in the Elderly and Incapacitated Victim's 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 as provided by Section 991f et seq. of this title or 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 to~~ confinement as provided by law together with a term of postimprisonment community supervision for not less than three (3) years of the total term allowed by law for imprisonment, with or without restitution; provided, however, the authority of this provision is limited to Section 7115 of Title 10 of the Oklahoma Statutes when the offense involved sexual abuse or sexual exploitation; Sections 681, 741 and 843.1 of Title 21 of the Oklahoma Statutes when the offense involved sexual abuse or sexual exploitation; and Sections 865, 866, 867, 885, 886, 888, 891, 1021, 1021.2, 1021.3, 1040.13a, 1087 and 1088 of Title 21 of the Oklahoma Statutes,

- 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 reimburse the Oklahoma State Bureau of Investigation and any authorized law enforcement

agency for all costs incurred by that agency for cleaning up an illegal drug laboratory site for which the defendant pleaded guilty, nolo contendere or was convicted. The court clerk shall collect the amount and may retain five percent (5%) of such monies to be deposited in the Court Clerk Revolving Fund to cover administrative costs and shall remit the remainder to the Oklahoma State Bureau of Investigation to be deposited in the OSBI Revolving Fund established by Section 150.19a of Title 74 of the Oklahoma Statutes or to the general fund wherein the other law enforcement agency is located,

- j. 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,
- k. 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,
- l. to participate in an assessment and evaluation by an assessment agency or assessment personnel certified by the Department of Mental Health and Substance Abuse Services pursuant to Section 3-460 of Title 43A of the Oklahoma Statutes and, as determined by the assessment, participate in an alcohol and drug substance abuse course or treatment program or both, pursuant to Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes, or as ordered by the court,
- m. 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 Fifteen Dollars (\$15.00) nor more than Fifty Dollars (\$50.00) 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,

n. to install, at the expense of the defendant, an ignition interlock device approved by the Board of Tests for Alcohol and Drug Influence. 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 two-hundredths (0.02) or greater,

- o. 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 Three Hundred Dollars (\$300.00) 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,
- p. 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,
- q. to submit to periodic testing for alcohol, intoxicating substance, or controlled dangerous substances by a qualified laboratory,
  - r. 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,
  - s. to be supervised by a Department of Corrections employee, a private supervision provider, or other person designated by the court,
  - t. to obtain positive behavior modeling by a trained mentor,
  - u. to serve a term of confinement in a restrictive housing facility available in the community,
  - v. 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,
  - w. to obtain employment or participate in employment-related activities,
  - x. to participate in mandatory day reporting to facilities or persons for services, payments, duties

or person-to-person contacts as specified by the court,

- y. 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,
- z. to submit to blood or saliva testing as required by subsection I of this section,
- aa. 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,
- bb. 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,
- cc. to attend a victim-offender reconciliation program if the victim agrees to participate and the offender is deemed appropriate for participation,
- dd. 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,

- ee. in the case of a sex offender sentenced after November 1, 1989, and required by law to register pursuant to the Sex Offenders Registration Act, the court shall require the person to comply with sex-offender-specific rules and conditions of supervision established by the Department of Corrections and require the person to participate in a treatment program, ~~if available~~ designed for the treatment of sex offenders during the period of time while the offender is subject to supervision by the Department of Corrections. The treatment program ~~may~~ shall include ~~polygraphs~~ polygraph examinations specifically designed for use with sex offenders for purposes of supervision and treatment compliance, ~~provided the~~ which shall be administered not less than each six (6) months during the period of supervision. The examination ~~is~~ shall be administered by a certified licensed polygraph examiner. The treatment program must be approved by the Department of Corrections or the Department of Mental Health and Substance Abuse Services. Such treatment shall be at the expense of the defendant based on the defendant's ability to pay,
- ff. 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,

gg. in the case of a person convicted of any false or bogus check violation, as defined in Section 1541.4 of Title 21 of the Oklahoma Statutes, impose a bogus check fee to be paid to the district attorney. The fee shall be equal to the amount assessed as court costs plus Twenty-five Dollars (\$25.00) for each check upon filing of the case in district court. This money shall be deposited in the Bogus Check Restitution Program Fund as established in subsection B of Section 114 of this title. Additionally, the court may require the offender to pay restitution and bogus check fees on any other bogus check or checks that have been submitted to the District Attorney Bogus Check Restitution Program, and

hh. 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-4.1 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. Order the defendant to reimburse the Oklahoma State Bureau of Investigation for all costs incurred by that agency for cleaning up an illegal drug laboratory site for which the defendant pleaded guilty, nolo contendere or was convicted. The court clerk shall collect the amount and may retain five percent (5%) of such monies to be deposited in the Court Clerk Revolving Fund to cover administrative costs and shall remit the remainder to the Oklahoma State Bureau of Investigation to be deposited in the OSBI Revolving Fund established by Section 150.19a of Title 74 of the Oklahoma Statutes;

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

7. 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 assessment and evaluation by an assessment agency or assessment personnel certified by the Department of Mental Health and Substance Abuse Services pursuant to Section 3-460 of Title 43A of the Oklahoma Statutes and, as determined by the assessment, participate in an alcohol and drug substance abuse course or treatment

program or both, 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 Fifty Dollars (\$50.00) 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, at the expense of the person, an ignition interlock device approved by the Board of Tests for Alcohol and Drug Influence, 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;

8. 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;

9. 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;

10. In addition to the other sentencing powers of the court, the court, in the case of a sex offender sentenced after November 1,

1989, and required by law to register pursuant to the Sex Offenders Registration Act, shall require the person to participate in a treatment program designed specifically for the treatment of sex offenders, if available. The treatment program ~~may~~ shall include ~~polygraphs~~ polygraph examinations specifically designed for use with sex offenders for the purpose of supervision and treatment compliance, provided the examination is administered by a certified licensed polygraph examiner. The treatment program must be approved by the Department of Corrections or the Department of Mental Health and Substance Abuse Services. Such treatment shall be at the expense of the defendant based on the defendant's ability to pay;

11. 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;

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

13. In addition to the other sentencing powers of the court, in the case of a habitual or aggravated sex offender as defined by Section 584 of Title 57 of the Oklahoma Statutes, who is required to register as a sex offender pursuant to the Oklahoma Sex Offenders Registration Act, the court shall order the habitual or aggravated sex offender be assigned to a global position monitoring device for the duration of the registration. The Department of Corrections shall be responsible for monitoring the global position monitoring

device. The cost of such monitoring device shall be reimbursed by the offender.

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 assessment and evaluation by an assessment agency or assessment personnel 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 agency or assessor for the evaluation. The fee shall be the amount provided in subsection C of Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation shall be conducted at a certified assessment agency, the office of a certified assessor or at another location as ordered by the court. The agency or assessor 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.

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 7 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 begin immediately upon release from incarceration and 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 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 Department shall establish criteria and specifications for contracts with counties for such Programs. A county may apply to the 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 Department.

4. The 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 two-hundredths (0.02) 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 a felony offense or receiving any form of probation for an offense in which registration is required

pursuant to the Sex Offenders Registration Act shall submit to deoxyribonucleic acid DNA 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 Combined DNA Index System (CODIS) Database. Any defendant sentenced to probation shall be required to submit to testing within thirty (30) days of sentencing either to the Department of Corrections or to the county sheriff as directed by the court. Defendants who are sentenced to a term of incarceration shall submit to testing 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 or to the county sheriff, for those defendants sentenced to incarceration in a county jail. Convicted individuals who have previously submitted to DNA testing under this section and for whom a valid sample is on file in the OSBI Combined DNA Index System (CODIS) Database at the time of sentencing shall not be required to submit to additional testing. Except as required by the Sex Offenders Registration Act, a deferred judgment does not require submission to deoxyribonucleic acid testing.

Any person who is incarcerated in the custody of the Department of Corrections after July 1, 1996, and who has not been released before the effective date of this act, shall provide a blood or saliva sample prior to release. Every person convicted of a felony offense after the effective date of this act whose sentence does not include a term of confinement with the Department of Corrections shall submit a blood or saliva sample. Those felons sentenced to unsupervised probation or otherwise not supervised by the Department of Corrections shall submit for blood or saliva testing to the sheriff of the sentencing county.

J. Samples of blood or saliva for DNA testing required by subsection I of this section shall be taken by employees or

contractors of the Department of Corrections or the county sheriff or employees or contractors of the sheriff's office. The individuals shall be properly trained to collect blood or saliva samples. Persons collecting blood or saliva for DNA testing pursuant to this section shall be immune from civil liabilities arising from this activity. The Department of Corrections and the county sheriff 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 physical custody to serve a term of incarceration. The Department and the sheriff's office 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 a fee of Fifteen Dollars (\$15.00) to the agency collecting the sample for submission to the OSBI Combined DNA Index System (CODIS) Database. Any fees collected by the Department of Corrections or the county sheriff pursuant to this subsection shall be deposited in the Department of Corrections revolving account or the sheriff's service fee account.

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

SECTION 8. AMENDATORY Section 4, Chapter 457, O.S.L. 2005 (47 O.S. Supp. 2005, Section 6-105.3), is amended to read as follows:

Section 6-105.3 A. In addition to the licenses to operate motor vehicles, the Department of Public Safety may issue cards to Oklahoma residents for purposes of identification only. The identification cards shall be issued, renewed, canceled and denied

in the same manner as driver licenses in this state. The application for an identification card by any person under the age of eighteen (18) shall be signed and verified by a custodial legal parent or legal guardian before a person authorized to administer oaths. The Except as otherwise provided in this section, the cards shall be valid for a period of four (4) years from the month of issuance; however, the identification cards issued to persons sixty-five (65) years of age or older shall be valid indefinitely from the month of issuance.

B. The fee charged for the issuance or renewal of an identification card which is not in computerized image format pursuant to this section shall be Seven Dollars (\$7.00); however, no person sixty-five (65) years of age or older shall be charged a fee for an identification card. The fees derived pursuant to this subsection shall be apportioned as provided in Section 1104 of Title 47 of the Oklahoma Statutes.

C. The fee charged for the issuance or renewal of an identification card which is in computerized image format pursuant to this section shall be Ten Dollars (\$10.00); however, no person sixty-five (65) years of age or older shall be charged a fee for an identification card. Of each fee charged pursuant to the provisions of this subsection:

1. Seven Dollars (\$7.00) shall be apportioned as provided in Section 1104 of Title 47 of the Oklahoma Statutes; and

2. Three Dollars (\$3.00) shall be credited to the Department of Public Safety Computer Imaging System Revolving Fund to be used solely for the purpose of the administration and maintenance of the computerized imaging system of the Department.

D. The Oklahoma Tax Commission is hereby authorized to reimburse, from funds available to that agency, each motor license agent issuing an identification card to a person sixty-five (65) years of age or older, an amount not to exceed One Dollar (\$1.00)

for each card or driver license so issued. The Tax Commission shall develop procedures for claims for reimbursement.

E. When a person makes application for a new identification card, or makes application to renew an identification card, and the person has been convicted of, or received a deferred judgment for, any offense requiring registration pursuant to the Sex Offenders Registration Act, the identification card shall be valid for a period of one (1) year from the month of issuance, but may be renewed yearly during the time the person is registered on the sex offender registry. The cost for such identification card shall be the same as for other identification cards and renewals.

SECTION 9. AMENDATORY 47 O.S. 2001, Section 6-115, as last amended by Section 40, Chapter 5, O.S.L. 2004 (47 O.S. Supp. 2005, Section 6-115), is amended to read as follows:

Section 6-115. A. ~~Every~~ Except as otherwise provided in this section, every driver license shall be issued for a period of no more than four (4) years; provided, if the applicant or licensee is an alien, the license shall be issued for a period which does not exceed the lesser of:

1. Four (4) years; or
2. The expiration date on the valid documentation authorizing the presence of the applicant or licensee in the United States, as required by paragraph 9 of subsection A of Section 6-103 of this title.

B. ~~The~~ Except as otherwise provided in this section, the expiration date of an initial license shall be no more than four (4) years from the last day of the month of issuance or no more than four (4) years from the last day of the birth month of the applicant immediately preceding the date of issuance, if requested by the applicant.

C. ~~The~~ Except as otherwise provided in this section, the expiration date of a renewal license shall be no more than four (4)

years from the last day of the month of expiration of the previous license or no more than four (4) years from the last day of the birth month of the licensee immediately preceding the expiration date of the previous license, if requested by the licensee.

D. ~~Every~~ Except as otherwise provided in this section, every driver license shall be renewable by the licensee upon application to either the Department of Public Safety or a motor license agent, furnishing both primary and secondary proofs of identity, the current mailing address of the person and payment of the required fee, if the person is otherwise eligible for renewal. If the licensee is an alien, the licensee shall appear before a driver license examiner of the Department and, after furnishing primary and secondary proofs of identity as required in this section, shall be issued a renewal driver license for a period which does not exceed the lesser of:

1. Four (4) years; or

2. The expiration date on the valid documentation authorizing the presence of the applicant or licensee in the United States, as required by paragraph 9 of subsection A of Section 6-103 of this title.

E. All applicants for renewals of driver licenses who have proven collision records or apparent physical defects may be required to take an examination as specified by the Commissioner of Public Safety.

F. When a person makes application for a driver license, or makes application to renew a driver license, and the person has been convicted of, or received a deferred judgment for, any offense requiring registration pursuant to the Sex Offenders Registration Act, the driver license shall be valid for a period of one (1) year from the month of issuance, but may be renewed yearly during the time the person is registered on the sex offender registry. The

cost for such license shall be the same as for other driver licenses and renewals.

G. The Department of Public Safety shall promulgate rules prescribing forms of primary and secondary identification acceptable for the renewal of an Oklahoma driver license.

SECTION 10. AMENDATORY 57 O.S. 2001, Section 583, as last amended by Section 2, Chapter 123, O.S.L. 2005 (57 O.S. Supp. 2005, Section 583), is amended to read as follows:

Section 583. A. Any person who becomes subject to the provisions of the Sex Offenders Registration Act on or after November 1, 1989, shall be registered as follows:

1. With the Department of Corrections within three (3) business days of being convicted or receiving a suspended sentence or any probationary term, including a deferred sentence imposed in violation of subsection G of Section 991c of Title 22 of the Oklahoma Statutes, if the person is not incarcerated, or within three (3) business days of release of the person from a correctional institution, except as provided in subsection B of this section;

2. With the local law enforcement authority having jurisdiction in the area where the person resides or intends to reside for more than seven (7) days. The registration is required within three (3) days after entering the jurisdiction of the law enforcement authority; and

3. With the Department of Corrections and the local law enforcement authority no less than three (3) business days prior to abandoning or moving from the address of the previous registration.

For purposes of this section, "local law enforcement authority" means:

- a. the municipal police department, if the person resides or intends to reside or stay within the jurisdiction of any municipality of this state, or

- b. the county sheriff, if the person resides or intends to reside or stay at any place outside the jurisdiction of any municipality within this state, and
- c. the police or security department of any institution of higher learning within this state if the person:
  - (1) enrolls as a full-time or part-time student,
  - (2) is a full-time or part-time employee at an institution of higher learning, or
  - (3) resides or intends to reside or stay on any property owned or controlled by the institution of higher learning.

B. Any person who has been convicted of an offense or received a deferred judgment for an offense ~~on or after November 1, 1989,~~ in another jurisdiction, which offense if committed or attempted in this state, would have been punishable as one or more of the offenses listed in Section 582 of this title and who enters this state on or after November 1, 1989, shall be registered as follows:

1. With the Department of Corrections when the person enters and intends to be in the state for any purpose for five (5) days or longer, has any type of full-time or part-time employment, with or without compensation for more than five (5) days, or is enrolled as a full-time or part-time student within this state. Such registration is required within two (2) days after entering the state;

2. With the local law enforcement authority having jurisdiction in the area where the person intends to reside or to stay for more than five (5) days, has any type of full-time or part-time employment, with or without compensation for more than five (5) days, or is enrolled as a full-time or part-time student within this state. The registration is required with local law enforcement

within two (2) days after entering the jurisdiction of the law enforcement authority;

3. With the Department of Corrections and the local law enforcement authority no less than three (3) business days prior to abandoning or moving from the address of the previous registration; and

4. For persons convicted of an offense or receiving a deferred judgment in another jurisdiction requiring registration, which offense if committed or attempted in this state, would have been punishable as one or more of the offenses listed in Section 582 of this title, shall maintain the registration for a period of ten (10) years from the date the person was initially required to register in Oklahoma, unless the person was convicted of a crime that would be classified as an habitual or aggravated sex offender within the State of Oklahoma, at which time registration shall continue at all times.

C. When a person has been convicted or received probation within the State of Oklahoma and the person is not classified as an habitual or aggravated sex offender, the person shall be required to register for a period of ten (10) years from the date of the completion of the sentence and the information received pursuant to the registration with the Department of Corrections required by this section shall be maintained by the Department of Corrections for at least ten (10) years from the date of the last registration.

D. When a person has been convicted or received probation within the State of Oklahoma and the person is not classified as an habitual or aggravated sex offender, the person shall be required to register for a period of ten (10) years from the date of completion of the sentence and the information received pursuant to the registration with the local law enforcement authority required by this section shall be maintained by such authority for at least ten (10) years from the date of the last registration.

E. When registering an offender as provided in this section the Department of Corrections or the local law enforcement ~~agency~~ authority having jurisdiction shall:

1. Inform the offender of the duty to register and obtain the information required for registration as described in this section;

2. Inform the offender that if the offender changes address, the offender shall give notice of the move and the new address to the Department of Corrections and to the local law enforcement authority in the location in which the offender previously resided in writing no later than three (3) days before the offender establishes residence or is temporarily domiciled at the new address;

3. Inform the offender that if the offender changes address to another state, the offender shall give notice of the move and shall register the new address with the Department of Corrections and with a designated law enforcement agency in the new state not later than ten (10) days before the offender establishes residency or is temporarily domiciled in the new state, if the new state has a registration requirement;

4. Inform the offender that if the offender participates in any full-time or part-time employment, in another state, with or without compensation for more than fourteen (14) days or an aggregate period exceeding thirty (30) days in a calendar year, then the offender has a duty to register as a sex offender in that state;

5. Inform the offender that if the offender enrolls in any type of school in another state as a full-time or part-time student then the offender has a duty to register as a sex offender in that state;

6. Inform the offender that if the offender enrolls in any school within this state as a full-time or part-time student, then the offender has a duty to register as a sex offender with the Department of Corrections and the local law enforcement authority;

7. Inform the offender that if the offender participates in any full-time or part-time employment at any school, with or without compensation, or participates in any vocational course or occupation at any school in this state, then the offender has a duty to notify the Department of Corrections and the local law enforcement authority in writing of such employment or participation at least three (3) days before commencing or upon terminating such employment or participation;

8. Inform the offender that if the offender graduates, transfers, drops, terminates or otherwise changes enrollment or employment at any school in this state, then the offender shall notify the Department of Corrections and the local law enforcement authority in writing of such change in enrollment or employment within three (3) days of the change; and

9. Require the offender to read and sign a form stating that the duty of the person to register under the Sex Offenders Registration Act has been explained.

F. For the purpose of this section, the "date of the completion of the sentence" means the day an offender completes all incarceration, probation and parole pertaining to the sentence.

G. Any person who resides in another state and who has been convicted of an offense or received a deferred judgment for an offense in this state, or in another jurisdiction, which offense if committed or attempted in this state would have been punishable as one or more of the offenses listed in Section 582 of this title, and who is the spouse of a person living in this state shall be registered as follows:

1. With the Department of Corrections when the person enters and intends to be in the state for any purpose for five (5) days or longer or an aggregate period of five (5) days or longer in a calendar year. Such registration is required within two (2) days after entering the state; and

2. With the local law enforcement authority having jurisdiction in the area where the person intends to reside or to stay within this state for two (2) days or longer. The registration is required with local law enforcement within two (2) days after entering the jurisdiction of the law enforcement authority.

SECTION 11. AMENDATORY 57 O.S. 2001, Section 584, as last amended by Section 9, Chapter 465, O.S.L. 2005 (57 O.S. Supp. 2005, Section 584), is amended to read as follows:

Section 584. A. Any registration with the Department of Corrections required by the Sex Offenders Registration Act shall be in a form approved by the Department and shall include the following information about the person registering:

1. The ~~person's~~ name of the person and all aliases used or under which the person has been known;

2. A complete description of the person, including a photograph and fingerprints, and when requested by the Department of Corrections, such registrant shall submit to a blood or saliva test for purposes of a deoxyribonucleic acid (DNA) profile. Submission to testing for individuals registering shall be within thirty (30) days of registration. Registrants who already have valid samples on file in the Oklahoma State Bureau of Investigation (OSBI) DNA Offender Database shall not be required to submit duplicate samples for testing;

3. The offenses listed in Section 582 of this title for which the person has been convicted or the person received a suspended sentence or any form of probation, where the offense was committed, where the person was convicted or received the suspended sentence or any form of probation, and the name under which the person was convicted or received the suspended sentence or probation;

4. The name and location of each hospital or penal institution to which the person was committed for each offense listed in Section 582 of this title;

5. Where the person previously resided, where the person currently resides, how long the person has resided there, how long the person expects to reside there, and how long the person expects to remain in the county and in this state. The Department of Corrections shall conduct address verification of each registered sex offender on an annual basis by mailing a nonforwardable verification form to the last reported address of the person. The person shall return the verification form in person to the local law enforcement ~~agency~~ authority of that jurisdiction within ten (10) days after receipt of the form and may be photographed by the local law enforcement ~~agency~~ authority at that time. The local law enforcement authority shall require the person to produce proof of the identity of the person and current address. Upon confirming the information contained within the verification form, the local law enforcement authority shall forward the form to the Department of Corrections within three (3) days after receipt of the form. The verification form shall be signed by the person and state the current address of the person. Failure to return the verification form shall be a violation of the Sex Offenders Registration Act. If the offender has been determined to be a habitual or aggravated sex offender by the Department of Corrections, the address verification shall be conducted every ninety (90) days. The Department of Corrections shall notify the district attorney's office and local law enforcement ~~agency~~ authority of the appropriate county, within forty-five (45) days if unable to verify the address of a sex offender. A local law enforcement ~~agency~~ authority may notify the district attorney's office whenever it comes to the attention of the local law enforcement ~~agency~~ authority that a sex offender is not in compliance with any provisions of this act. A local law enforcement authority designated as the primary registration authority of the person may, at any time, mail a nonforwardable verification form to

the last-reported address of the person. The person shall return the verification form in person to the local law enforcement authority that mailed the form within ten (10) days after receipt of the form. The local law enforcement authority shall require the person to produce proof of the identity of the person and current address; and

6. The name and address of any school where the person expects to become or is enrolled or employed for any length of time; and

7. The numeric risk level of the person.

B. Conviction data and fingerprints shall be promptly transmitted at the time of registration to the Oklahoma State Bureau of Investigation (OSBI) and the Federal Bureau of Investigation (FBI) if the state has not previously sent the information at the time of conviction.

C. The registration with the local law enforcement authority required by the Sex Offenders Registration Act shall be in a form approved by the local law enforcement authority and shall include the following information about the person registering:

1. The ~~person's~~ full name of the person, alias, date of birth, sex, race, height, weight, eye color, social security number, driver license number, and home address; and

2. A description of the offense for which the offender was convicted, the date of the conviction, ~~and~~ the sentence imposed, if applicable, and the numeric risk level of the person.

For purposes of this section, "local law enforcement authority" means:

- a. the municipal police department, if the person resides or intends to reside or stay within the jurisdiction of any municipality of this state, or
- b. the county sheriff, if the person resides or intends to reside or stay at any place outside the

jurisdiction of any municipality within this state,  
and

- c. the police or security department of any institution of higher learning within this state if the person:
- (1) enrolls as a full-time or part-time student,
  - (2) is a full-time or part-time employee at an institution of higher learning, or
  - (3) resides or intends to reside or stay on any property owned or controlled by the institution of higher learning.

D. Any person subject to the provisions of the Sex Offenders Registration Act who changes an address shall give written notification to the Department of Corrections and the local law enforcement authority of the change of address and the new address no later than three (3) business days prior to the abandonment of or move from the current address. If the new address is under the jurisdiction of a different local law enforcement authority, ~~the:~~

1. The Department of Corrections and the local law enforcement authority shall notify the new local law enforcement authority by teletype, electronic transmission, or letter of the change of address;

2. The offender shall notify the new local law enforcement authority of any previous registration; and

3. The new local law enforcement authority shall notify the most recent registering agency by teletype or letter of the change in address of the offender. If the new address is in another state the Department of Corrections shall promptly notify the agency responsible for registration in that state of the new address of the offender.

E. The Department of Corrections shall maintain a file of all sex offender registrations. A copy of the information contained in the registration shall promptly be available to state, county and

municipal law enforcement agencies, the State Superintendent of Public Instruction, and the National Sex Offender Registry maintained by the Federal Bureau of Investigation. The file shall promptly be made available for public inspection or copying pursuant to rules promulgated by the Department of Corrections and may be made available through Internet access. The Department of Corrections shall promptly provide all municipal police departments, all county sheriff departments and all campus police departments a list of those sex offenders registered and living in their county. The Superintendent of Public Instruction is authorized to copy and shall distribute information from the sex offender registry to school districts and individual public and private schools within the state with a notice using the following or similar language: "A person whose name appears on this registry has been convicted of a sex offense. Continuing to employ a person whose name appears on this registry may result in civil liability for the employer or criminal prosecution pursuant to Section 589 of Title 57 of the Oklahoma Statutes."

F. Each local law enforcement ~~agency~~ authority shall make its sex offender registry available upon request, without restriction, at a cost that is no more than what is charged for other records provided by the local law enforcement ~~agency~~ authority pursuant to the Oklahoma Open Records Act.

When a local law enforcement ~~agency~~ authority sends a copy of or otherwise makes the sex offender registry available to any public or private school offering any combination of prekindergarten through twelfth grade classes or child care facility licensed by the state, the agency shall provide a notice using the following or similar language: "A person whose name appears on this registry has been convicted of a sex offense. Continuing to employ a person whose name appears on this registry may result in civil liability for the

employer or criminal prosecution pursuant to Section 589 of Title 57 of the Oklahoma Statutes."

G. Samples of blood or saliva for DNA testing required by subsection A of this section shall be taken by employees or contractors of the Department of Corrections. Said individuals shall be properly trained to collect blood or saliva samples. Persons collecting samples 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 is mailed to the Oklahoma State Bureau of Investigation (OSBI) within ten (10) days of the time the subject appears for testing. The Department shall use sample kits provided by the OSBI and procedures promulgated by the OSBI. Persons subject to DNA testing pursuant to this section shall be required to pay to the Department of Corrections a fee of Fifteen Dollars (\$15.00). Any fees collected pursuant to this subsection shall be deposited in the Department of Corrections revolving account.

H. 1. Any person who has been convicted of or received a suspended sentence or any probationary term, including a deferred sentence imposed in violation of subsection G of Section 991c of Title 22 of the Oklahoma Statutes, for any crime listed in Section 582 of this title and:

- a. who is subsequently convicted of a crime or an attempt to commit a crime listed in subsection A of Section 582 of this title, or
- b. who enters this state after November 1, 1997, and who has been convicted of an additional crime or attempted crime which, if committed or attempted in this state, would be a crime or an attempt to commit a crime provided for in subsection A of Section 582 of this title,

shall be subject to all of the registration requirements of this act and shall be designated by the Department of Corrections as a habitual sex offender. A habitual sex offender shall be required to register for the lifetime of the habitual sex offender.

2. On or after November 1, 1999, any person who has been convicted of a crime or an attempt to commit a crime, received a suspended sentence or any probationary term, including a deferred sentence imposed in violation of subsection G of Section 991c of Title 22 of the Oklahoma Statutes, for a crime provided for in Section 7115 of Title 10 of the Oklahoma Statutes, if the offense involved sexual abuse or sexual exploitation as these terms are defined in Section 7102 of Title 10 of the Oklahoma Statutes, Section 885, 888, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes shall be subject to all the registration requirements of this act and shall be designated by the Department of Corrections as an aggravated sex offender. An aggravated sex offender shall be required to register for the lifetime of the aggravated sex offender.

3. Upon registration of any person designated as a habitual or aggravated sex offender, pursuant to this subsection, a local law enforcement authority shall notify, by any method of communication it deems appropriate, anyone that the local law enforcement authority determines appropriate, including, but not limited to:

- a. the family of the habitual or aggravated sex offender,
- b. any prior victim of the habitual or aggravated sex offender,
- c. residential neighbors and churches, community parks, schools, convenience stores, businesses and other places that children or other potential victims may frequent, and
- d. a nursing facility, a specialized facility, a residential care home, a continuum-of-care facility,

an assisted living center, and an adult day care facility.

4. The notification may include, but is not limited to, the following information:

- a. the name and physical address of the habitual or aggravated sex offender,
- b. a physical description of the habitual or aggravated sex offender, including, but not limited to, age, height, weight and eye and hair color,
- c. a description of the vehicle that the habitual or aggravated sex offender is known to drive,
- d. any conditions or restrictions upon the probation, parole or conditional release of the habitual or aggravated sex offender,
- e. a description of the primary and secondary targets of the habitual or aggravated sex offender,
- f. a description of the method of offense of the habitual or aggravated sex offender,
- g. a current photograph of the habitual or aggravated sex offender, ~~and~~
- h. the name and telephone number of the probation or parole officer of the habitual or aggravated sex offender, and
- i. the numeric risk level of the person.

5. The local law enforcement authority shall make the notification provided for in this subsection regarding a habitual or aggravated sex offender available to any person upon request.

I. If the probation and parole officer supervising a person subject to registration receives information to the effect that the status of the person has changed in any manner that affects proper supervision of the person including, but not limited to, a change in the physical health of the person, address, employment, or

educational status, higher educational status, incarceration, or terms of release, the supervising officer or administrator shall notify the appropriate local law enforcement authority or authorities of that change.

J. Public officials, public employees, and public agencies are immune from civil liability for good faith conduct under any provision of the Sex Offenders Registration Act.

1. Nothing in the Sex Offenders Registration Act shall be deemed to impose any liability upon or to give rise to a cause of action against any public official, public employee, or public agency for releasing information to the public or for failing to release information in accordance with the Sex Offenders Registration Act.

2. Nothing in this section shall be construed to prevent law enforcement officers from notifying members of the public of any persons that pose a danger under circumstances that are not enumerated in the Sex Offenders Registration Act.

K. 1. The offender shall pay an annual registration fee of Sixty Dollars (\$60.00) to the local law enforcement authority with which the offender is required to register. The offender shall pay the fee upon the initial registration with the local law enforcement authority and shall pay the fee each year thereafter until the offender is no longer subject to the provisions of the Sex Offenders Registration Act.

2. Upon a request by the offender to the local law enforcement authority for a determination of the distance from the residence of the offender to the nearest public or private school site or educational institution, playground or park, the offender shall be required to pay a fee of Twenty Dollars (\$20.00).

3. For any change to the registration status of the offender, the offender shall be required to pay a fee of Ten Dollars (\$10.00).

L. Any fee collected pursuant to subsection K of this section, shall be distributed by the local law enforcement authority as follows:

1. Eighty percent (80%) to the local law enforcement authority that the offender is required to register with;
2. Fifteen percent (15%) to the Department of Corrections; and
3. Five percent (5%) to the Council on Law Enforcement Education and Training.

Each local law enforcement authority shall establish and maintain a separate fund for the monies collected. The monies shall be used exclusively to defray the costs associated with establishing and maintaining a sex offender management program.

SECTION 12. AMENDATORY Section 1, Chapter 223, O.S.L. 2003 (57 O.S. Supp. 2005, Section 590), is amended to read as follows:

Section 590. It is unlawful for any person registered pursuant to the ~~Oklahoma~~ Sex Offenders Registration Act to reside within a two-thousand-foot radius of any public or private school site or educational institution, playground or park. The distance indicated in this section shall be measured from the nearest property line of the residence of the person to the nearest property line of the public or private school site or educational institution, playground or park.

Nothing in this provision shall require any person to sell or otherwise dispose of any real estate or home acquired or owned prior to the conviction of the person as a sex offender. Any person willfully violating the provisions of this section by intentionally moving into any neighborhood or to any real estate or home within the prohibited distance shall, upon conviction, be guilty of a misdemeanor punishable by a fine not to exceed Three Thousand Dollars (\$3,000.00) on a first offense, and any second or subsequent

offense shall be punishable by incarceration for not less than one (1) year in the county jail in addition to such fine.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 590.1 of Title 57, unless there is created a duplication in numbering, reads as follows:

Before a person who will be subject to the provisions of the Sex Offenders Registration Act is due to be released from a correctional institution, the Department of Corrections shall determine the level of risk of the person to the community using the sex offender screening tool developed or selected pursuant to Section 17 of this act, and assign to the person a numeric risk level of one, two, or three.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 590.2 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. No less than seven (7) days prior to the date on which a person, who will be subject to the provisions of the Sex Offenders Registration Act, is to be released from a correctional institution, the person in charge of the correctional institution shall forward the registration information, as provided in subsection A of Section 585 of Title 57 of the Oklahoma Statutes, and numeric risk level to the Department of Corrections and to:

1. The local law enforcement authority in the municipality or county in which the person expects to reside, if the person expects to reside within this state; or

2. The local law enforcement authority that is identified by the correctional institution as the agency designated by another state to receive registration information, if the person expects to reside in that other state and that other state has a registration requirement for sex offenders.

B. If a person, who will be subject to the provisions of the Sex Offenders Registration Act, received a suspended sentence or any

probationary term, including a deferred sentence imposed in violation of subsection G of Section 991c of Title 22 of the Oklahoma Statutes, the court shall, on the day of pronouncing the judgment and sentence:

1. Make a determination of the numeric risk level of the person using the sex offender screening tool developed or selected pursuant to Section 17 of this act;

2. Assign to the person a numeric risk level of one, two, or three; and

3. Notify the person of the obligation to register as a sex offender as provided for in Section 585 of Title 57 of the Oklahoma Statutes.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 590.3 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. Not more than seven (7) days after receiving any registration information and numeric risk level of a person, the local law enforcement authority shall verify the basis on which the person is subject to registration pursuant to the Sex Offenders Registration Act, and the numeric risk level of the person.

B. Upon verification, the local law enforcement authority shall immediately cause to be published notification in the newspaper of largest paid circulation located in the city or municipality in which the person subject to registration intends to reside or, if there is no newspaper of paid circulation located in that city or municipality, in the newspaper with the largest paid circulation in the county; provided, however, a local law enforcement authority shall not publish notice in a newspaper if the person subject to registration is assigned a numeric risk level of one. If the local law enforcement authority publishes notice under this subsection, the local law enforcement authority shall publish a duplicate notice

in the newspaper, with any necessary corrections, during the week immediately following the week of initial publication.

C. The local law enforcement authority shall include in the notice by publication the following information:

1. The full name, age, and gender of the person;

2. A brief description of the offense for which the person is subject to registration;

3. The municipality, numeric street address or physical address, if a numeric street address is not available, and zip code number where the person intends to reside;

4. Either a recent photograph of the person or the Internet address of a web site on which the photograph of the person is accessible free of charge; and

5. The numeric risk level assigned to the person and the guidelines used to determine the risk level of a person subject to registration.

D. The local law enforcement authority shall also immediately provide notice by mail to the office of the superintendent of the school district and to the administrator of any private primary or secondary school located in the public school district in which the person subject to registration intends to reside. On receipt of a notice under this subsection, the superintendent or administrator shall release the information contained in the notice to appropriate school district personnel including, but not limited to, campus police officers and security personnel, principals, nurses, and counselors.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 590.4 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. Upon receipt of notice pursuant to the provisions of Section 14 of this act that a person subject to registration is to be released from a correctional institution, has been placed on any

form of probation or parole, or intends to move to a new residence in this state, the Department of Corrections shall verify the numeric risk level assigned to the person. If the person is assigned a numeric risk level of three, the Department shall, not more than seven (7) days after the date on which the person is released or not more than seven (7) days after the date on which the person moves, provide written notice mailed or delivered to at least each residential address within a one-mile radius, in an area that has not been subdivided, or a three-block area, in an area that has been subdivided, of the place where the person intends to reside.

B. The Department shall include in the notice any information that is public information.

C. The Department shall establish procedures for a person with respect to whom notice is provided under subsection A of this section to pay to the Department all costs incurred by the Department in providing the notice. The person shall pay those costs in accordance with the procedures established under this subsection.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 590.5 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. The Department of Corrections shall establish a risk-assessment review committee composed of at least five members, each of whom is a state employee whose service on the review committee is in addition to the regular duties of the employee. The review committee, to the extent feasible, should include the following:

1. One member having experience in law enforcement;
2. One member having experience as a sex offender treatment provider; and
3. One member having experience working with victims of sex offenses.

B. The risk-assessment review committee functions in an oversight capacity. The committee shall:

1. Develop or select from among existing tools, a sex offender screening tool to be used in determining the level of risk of a person subject to registration pursuant to the provisions of the Sex Offenders Registration Act;

2. Ensure that staff is trained on the use of the screening tool;

3. Monitor the use of the screening tool in the state; and

4. Analyze other screening tools as they become available and revise or replace the existing screening tool, if warranted.

C. The sex offender screening tool must use an objective point system under which a person is assigned a designated number of points for each of the various factors. In developing or selecting the sex offender screening tool, the risk-assessment review committee shall use or shall select a screening tool that may be adapted to use the following general guidelines:

1. Level one (low): a designated range of points on the sex offender screening tool indicating that the person poses a low danger to the community and will not likely engage in criminal sexual conduct;

2. Level two (moderate): a designated range of points on the sex offender screening tool indicating that the person poses a moderate danger to the community and may continue to engage in criminal sexual conduct; and

3. Level three (high): a designated range of points on the sex offender screening tool indicating that the person poses a serious danger to the community and will continue to engage in criminal sexual conduct.

D. The risk-assessment review committee, the Department of Corrections, or a court may override a risk level only if the entity:

1. Believes that the risk level assessed is not an accurate prediction of the risk the offender poses to the community; and

2. Documents the reason for the override in the case file of the offender.

E. All records and files relating to a person for whom a court, or the Department of Corrections, is required under this act to determine a level of risk, shall be released to the court or the Department of Corrections as appropriate, for the purpose of determining the risk level of the person.

F. The provisions of the Oklahoma Open Meeting Act do not apply to a meeting of the risk-assessment review committee.

SECTION 18. This act shall become effective July 1, 2006.

SECTION 19. 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.

50-2-10053      GRS      04/17/06