

CS for SB 1964

THE STATE SENATE  
Tuesday, February 28, 2006

Committee Substitute for  
Senate Bill No. 1964

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1964 - By: CORN of the Senate and BLACKWELL of the House.

[ sex offenders - post-imprisonment supervision - treatment - polygraph examinations - identification cards - driver license - effective date - emergency ]

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

SECTION 1. AMENDATORY 22 O.S. 2001, Section 991a, as last amended by Section 2, Chapter 441, O.S.L. 2005 (22 O.S. Supp. 2005, Section 991a), is amended to read as follows:

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

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

a. to provide restitution to the victim as provided by Section 991f et seq. of this title or according to a schedule of payments established by the sentencing

1 court, together with interest upon any pecuniary sum  
2 at the rate of twelve percent (12%) per annum, if the  
3 defendant agrees to pay such restitution or, in the  
4 opinion of the court, if the defendant is able to pay  
5 such restitution without imposing manifest hardship on  
6 the defendant or the immediate family and if the  
7 extent of the damage to the victim is determinable  
8 with reasonable certainty,

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

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

20 d. to pay a reasonable sum into any trust fund,  
21 established pursuant to the provisions of Sections 176  
22 through 180.4 of Title 60 of the Oklahoma Statutes,  
23 and which provides restitution payments by convicted

1 defendants to victims of crimes committed within this  
2 state wherein such victim has incurred a financial  
3 loss,  
4 e. to confinement in the county jail for a period not to  
5 exceed six (6) months,  
6 f. ~~to reimburse the court fund for amounts paid to court-~~  
7 ~~appointed attorneys for representing the defendant in~~  
8 ~~the case in which he or she is being sentenced to~~  
9 confinement as provided by law together with a term of  
10 post-imprisonment community supervision for not less  
11 than three (3) years of the total term allowed by law  
12 for imprisonment, with or without restitution;  
13 provided, however, the authority of this provision is  
14 limited to Section 7115 of Title 10 of the Oklahoma  
15 Statutes when the offense involved sexual abuse or  
16 sexual exploitation; Sections 681, 741 and 843.1 of  
17 Title 21 of the Oklahoma Statutes when the offense  
18 involved sexual abuse or sexual exploitation; and  
19 Sections 865 et seq., 885, 886, 888, 891, 1021,  
20 1021.2, 1021.3, 1040.13a, 1087 and 1088 of Title 21 of  
21 the Oklahoma Statutes,  
22 g. to repay the reward or part of the reward paid by a  
23 certified local crimestoppers program and the Oklahoma

1 Reward System. In determining whether the defendant  
2 shall repay the reward or part of the reward, the  
3 court shall consider the ability of the defendant to  
4 make the payment, the financial hardship on the  
5 defendant to make the required payment, and the  
6 importance of the information to the prosecution of  
7 the defendant as provided by the arresting officer or  
8 the district attorney with due regard for the  
9 confidentiality of the records of the certified local  
10 crimestoppers program and the Oklahoma Reward System.  
11 The court shall assess this repayment against the  
12 defendant as a cost of prosecution. "Certified local  
13 crimestoppers program" means a crimestoppers program  
14 certified by the Office of the Attorney General  
15 pursuant to Section 991g of this title. The "Oklahoma  
16 Reward System" means the reward program established by  
17 Section 150.18 of Title 74 of the Oklahoma Statutes,  
18 h. to reimburse the Oklahoma State Bureau of  
19 Investigation for costs incurred by that agency during  
20 its investigation of the crime for which the defendant  
21 pleaded guilty, nolo contendere or was convicted,  
22 including compensation for laboratory, technical, or  
23 investigation services performed by the Bureau if, in

1 the opinion of the court, the defendant is able to pay  
2 without imposing manifest hardship on the defendant,  
3 and if the costs incurred by the Bureau during the  
4 investigation of the defendant's case may be  
5 determined with reasonable certainty,

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

20 j. to pay a reasonable sum to the Crime Victims  
21 Compensation Board, created by Section 142.2 et seq.  
22 of Title 21 of the Oklahoma Statutes, for the benefit  
23 of crime victims,

- 1 k. to reimburse the court fund for amounts paid to court-  
2 appointed attorneys for representing the defendant in  
3 the case in which the person is being sentenced,  
4 l. to participate in an assessment and evaluation by an  
5 assessment agency or assessment personnel certified by  
6 the Department of Mental Health and Substance Abuse  
7 Services pursuant to Section 3-460 of Title 43A of the  
8 Oklahoma Statutes and, as determined by the  
9 assessment, participate in an alcohol and drug  
10 substance abuse course or treatment program or both,  
11 pursuant to Sections 3-452 and 3-453 of Title 43A of  
12 the Oklahoma Statutes, or as ordered by the court,  
13 m. to be placed in a victims impact panel program or  
14 victim/offender reconciliation program and payment of  
15 a fee to the program of not less than Five Dollars  
16 (\$5.00) nor more than Twenty-five Dollars (\$25.00) as  
17 set by the governing authority of the program to  
18 offset the cost of participation by the defendant.  
19 Provided, each victim/offender reconciliation program  
20 shall be required to obtain a written consent form  
21 voluntarily signed by the victim and defendant that  
22 specifies the methods to be used to resolve the  
23 issues, the obligations and rights of each person, and

1 the confidentiality of the proceedings. Volunteer  
2 mediators and employees of a victim/offender  
3 reconciliation program shall be immune from liability  
4 and have rights of confidentiality as provided in  
5 Section 1805 of Title 12 of the Oklahoma Statutes,  
6 n. to install, at the expense of the defendant, an  
7 ignition interlock device approved by the Board of  
8 Tests for Alcohol and Drug Influence. The device  
9 shall be installed upon every motor vehicle operated  
10 by the defendant, and the court shall require that a  
11 notation of this restriction be affixed to the  
12 defendant's driver license. The restriction shall  
13 remain on the driver license not exceeding two (2)  
14 years to be determined by the court. The restriction  
15 may be modified or removed only by order of the court  
16 and notice of any modification order shall be given to  
17 the Department of Public Safety. Upon the expiration  
18 of the period for the restriction, the Department of  
19 Public Safety shall remove the restriction without  
20 further court order. Failure to comply with the order  
21 to install an ignition interlock device or operating  
22 any vehicle without a device during the period of  
23 restriction shall be a violation of the sentence and

1 may be punished as deemed proper by the sentencing  
2 court. As used in this paragraph, "ignition interlock  
3 device" means a device that, without tampering or  
4 intervention by another person, would prevent the  
5 defendant from operating a motor vehicle if the  
6 defendant has a blood or breath alcohol concentration  
7 of two-hundredths (0.02) or greater,  
8 o. to be confined by electronic monitoring administered  
9 and supervised by the Department of Corrections or a  
10 community sentence provider, and payment of a  
11 monitoring fee to the supervising authority, not to  
12 exceed Three Hundred Dollars (\$300.00) per month. Any  
13 fees collected pursuant to this paragraph shall be  
14 deposited with the appropriate supervising authority.  
15 Any willful violation of an order of the court for the  
16 payment of the monitoring fee shall be a violation of  
17 the sentence and may be punished as deemed proper by  
18 the sentencing court. As used in this paragraph,  
19 "electronic monitoring" means confinement of the  
20 defendant within a specified location or locations  
21 with supervision by means of an electronic device  
22 approved by the Department of Corrections which is  
23 designed to detect if the defendant is in the court-

1 ordered location at the required times and which  
2 records violations for investigation by a qualified  
3 supervisory agency or person,  
4 p. to perform one or more courses of treatment, education  
5 or rehabilitation for any conditions, behaviors,  
6 deficiencies or disorders which may contribute to  
7 criminal conduct, including but not limited to alcohol  
8 and substance abuse, mental health, emotional health,  
9 physical health, propensity for violence, antisocial  
10 behavior, personality or attitudes, deviant sexual  
11 behavior, child development, parenting assistance, job  
12 skills, vocational-technical skills, domestic  
13 relations, literacy, education, or any other  
14 identifiable deficiency which may be treated  
15 appropriately in the community and for which a  
16 certified provider or a program recognized by the  
17 court as having significant positive impact exists in  
18 the community. Any treatment, education or  
19 rehabilitation provider required to be certified  
20 pursuant to law or rule shall be certified by the  
21 appropriate state agency or a national organization,

- 1           q.    to submit to periodic testing for alcohol,  
2                    intoxicating substance, or controlled dangerous  
3                    substances by a qualified laboratory,  
4           r.    to pay a fee, costs for treatment, education,  
5                    supervision, participation in a program, or any  
6                    combination thereof as determined by the court, based  
7                    upon the defendant's ability to pay the fees or costs,  
8           s.    to be supervised by a Department of Corrections  
9                    employee, a private supervision provider, or other  
10                  person designated by the court,  
11           t.    to obtain positive behavior modeling by a trained  
12                  mentor,  
13           u.    to serve a term of confinement in a restrictive  
14                  housing facility available in the community,  
15           v.    to serve a term of confinement in the county jail at  
16                  night or during weekends pursuant to Section 991a-2 of  
17                  this title or for work release,  
18           w.    to obtain employment or participate in employment-  
19                  related activities,  
20           x.    to participate in mandatory day reporting to  
21                  facilities or persons for services, payments, duties  
22                  or person-to-person contacts as specified by the  
23                  court,

- 1           y.    to pay day fines not to exceed fifty percent (50%) of  
2                   the net wages earned. For purposes of this paragraph,  
3                   "day fine" means the offender is ordered to pay an  
4                   amount calculated as a percentage of net daily wages  
5                   earned. The day fine shall be paid to the local  
6                   community sentencing system as reparation to the  
7                   community. Day fines shall be used to support the  
8                   local system,
- 9           z.    to submit to blood or saliva testing as required by  
10                   subsection I of this section,
- 11          aa.   to repair or restore property damaged by the  
12                   defendant's conduct, if the court determines the  
13                   defendant possesses sufficient skill to repair or  
14                   restore the property and the victim consents to the  
15                   repairing or restoring of the property,
- 16          bb.   to restore damaged property in kind or payment of out-  
17                   of-pocket expenses to the victim, if the court is able  
18                   to determine the actual out-of-pocket expenses  
19                   suffered by the victim,
- 20          cc.   to attend a victim-offender reconciliation program if  
21                   the victim agrees to participate and the offender is  
22                   deemed appropriate for participation,

1 dd. in the case of a person convicted of prostitution  
2 pursuant to Section 1029 of Title 21 of the Oklahoma  
3 Statutes, require such person to receive counseling  
4 for the behavior which may have caused such person to  
5 engage in prostitution activities. Such person may be  
6 required to receive counseling in areas including but  
7 not limited to alcohol and substance abuse, sexual  
8 behavior problems, or domestic abuse or child abuse  
9 problems,  
10 ee. in the case of a sex offender sentenced after November  
11 1, 1989, and required by law to register pursuant to  
12 the Sex Offender Registration Act, the court shall  
13 require the person to comply with sex offender  
14 specific rules and conditions of supervision  
15 established by the Department of Corrections and  
16 require the person to participate in a treatment  
17 program, ~~if available~~ designed for the treatment of  
18 sex offenders during the period of time while the  
19 offender is subject to supervision by the Department  
20 of Corrections. The treatment program ~~may~~ shall  
21 include ~~polygraphs~~ polygraph examinations specifically  
22 designed for use with sex offenders for purposes of  
23 supervision and treatment compliance, ~~provided the~~ and

1                   shall be administered not less than each six (6)  
2                   months during the period of supervision. The  
3                   examination ~~is~~ shall be administered by a certified  
4                   licensed polygraph examiner. The treatment program  
5                   must be approved by the Department of Corrections or  
6                   the Department of Mental Health and Substance Abuse  
7                   Services. Such treatment shall be at the expense of  
8                   the defendant based on the defendant's ability to pay,  
9                   ff. in addition to other sentencing powers of the court,  
10                   the court in the case of a defendant being sentenced  
11                   for a felony conviction for a violation of Section 2-  
12                   402 of Title 63 of the Oklahoma Statutes which  
13                   involves marijuana may require the person to  
14                   participate in a drug court program, if available. If  
15                   a drug court program is not available, the defendant  
16                   may be required to participate in a community  
17                   sanctions program, if available,  
18                   gg. in the case of a person convicted of any false or  
19                   bogus check violation, as defined in Section 1541.4 of  
20                   Title 21 of the Oklahoma Statutes, impose a bogus  
21                   check fee to be paid to the district attorney. The  
22                   fee shall be equal to the amount assessed as court  
23                   costs plus Twenty-five Dollars (\$25.00) for each check

1           upon filing of the case in district court. This money  
2           shall be deposited in the Bogus Check Restitution  
3           Program Fund as established in subsection B of Section  
4           114 of this title. Additionally, the court may  
5           require the offender to pay restitution and bogus  
6           check fees on any other bogus check or checks that  
7           have been submitted to the District Attorney Bogus  
8           Check Restitution Program, and

9           hh. any other provision specifically ordered by the court.

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

15          2. Impose a fine prescribed by law for the offense, with or  
16          without probation or commitment and with or without restitution or  
17          service as provided for in this section, Section 991a-4.1 of this  
18          title or Section 227 of Title 57 of the Oklahoma Statutes;

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

21          4. Order the defendant to reimburse the Oklahoma State Bureau  
22          of Investigation for costs incurred by that agency during its  
23          investigation of the crime for which the defendant pleaded guilty,

1 nolo contendere or was convicted, including compensation for  
2 laboratory, technical, or investigation services performed by the  
3 Bureau if, in the opinion of the court, the defendant is able to pay  
4 without imposing manifest hardship on the defendant, and if the  
5 costs incurred by the Bureau during the investigation of the  
6 defendant's case may be determined with reasonable certainty;

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

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

19 7. In addition to the other sentencing powers of the court, in  
20 the case of a person convicted of operating or being in control of a  
21 motor vehicle while the person was under the influence of alcohol,  
22 other intoxicating substance, or a combination of alcohol or another  
23 intoxicating substance, or convicted of operating a motor vehicle

1 while the ability of the person to operate such vehicle was impaired  
2 due to the consumption of alcohol, require such person:

3 a. to participate in an alcohol and drug assessment and  
4 evaluation by an assessment agency or assessment  
5 personnel certified by the Department of Mental Health  
6 and Substance Abuse Services pursuant to Section 3-460  
7 of Title 43A of the Oklahoma Statutes and, as  
8 determined by the assessment, participate in an  
9 alcohol and drug substance abuse course or treatment  
10 program or both, pursuant to Sections 3-452 and 3-453  
11 of Title 43A of the Oklahoma Statutes,

12 b. to attend a victims impact panel program, if such a  
13 program is offered in the county where the judgment is  
14 rendered, and to pay a fee, not less than Fifteen  
15 Dollars (\$15.00) nor more than Twenty-five Dollars  
16 (\$25.00) as set by the governing authority of the  
17 program and approved by the court, to the program to  
18 offset the cost of participation by the defendant, if  
19 in the opinion of the court the defendant has the  
20 ability to pay such fee,

21 c. to both participate in the alcohol and drug substance  
22 abuse course or treatment program, pursuant to  
23 subparagraph a of this paragraph and attend a victims

1 impact panel program, pursuant to subparagraph b of  
2 this paragraph,  
3 d. to install, at the expense of the person, an ignition  
4 interlock device approved by the Board of Tests for  
5 Alcohol and Drug Influence, upon every motor vehicle  
6 operated by such person and to require that a notation  
7 of this restriction be affixed to the person's driver  
8 license at the time of reinstatement of the license.  
9 The restriction shall remain on the driver license for  
10 such period as the court shall determine. The  
11 restriction may be modified or removed by order of the  
12 court and notice of the order shall be given to the  
13 Department of Public Safety. Upon the expiration of  
14 the period for the restriction, the Department of  
15 Public Safety shall remove the restriction without  
16 further court order. Failure to comply with the order  
17 to install an ignition interlock device or operating  
18 any vehicle without such device during the period of  
19 restriction shall be a violation of the sentence and  
20 may be punished as deemed proper by the sentencing  
21 court, or  
22 e. beginning January 1, 1993, to submit to electronically  
23 monitored home detention administered and supervised

1 by the Department of Corrections, and to pay to the  
2 Department a monitoring fee, not to exceed Seventy-  
3 five Dollars (\$75.00) a month, to the Department of  
4 Corrections, if in the opinion of the court the  
5 defendant has the ability to pay such fee. Any fees  
6 collected pursuant to this subparagraph shall be  
7 deposited in the Department of Corrections Revolving  
8 Fund. Any order by the court for the payment of the  
9 monitoring fee, if willfully disobeyed, may be  
10 enforced as an indirect contempt of court;

11 8. In addition to the other sentencing powers of the court, in  
12 the case of a person convicted of prostitution pursuant to Section  
13 1029 of Title 21 of the Oklahoma Statutes, require such person to  
14 receive counseling for the behavior which may have caused such  
15 person to engage in prostitution activities. Such person may be  
16 required to receive counseling in areas including but not limited to  
17 alcohol and substance abuse, sexual behavior problems, or domestic  
18 abuse or child abuse problems;

19 9. In addition to the other sentencing powers of the court, in  
20 the case of a person convicted of any crime related to domestic  
21 abuse, as defined in Section 60.1 of this title, the court may  
22 require the defendant to undergo the treatment or participate in the  
23 counseling services necessary to bring about the cessation of

1 domestic abuse against the victim. The defendant may be required to  
2 pay all or part of the cost of the treatment or counseling services;

3 10. In addition to the other sentencing powers of the court,  
4 the court, in the case of a sex offender sentenced after November 1,  
5 1989, and required by law to register pursuant to the Sex Offenders  
6 Registration Act, shall require the person to participate in a  
7 treatment program designed specifically for the treatment of sex  
8 offenders, if available. The treatment program ~~may~~ will include  
9 ~~polygraphs~~ polygraph examinations specifically designed for use with  
10 sex offenders for the purpose of supervision and treatment  
11 compliance, provided the examination is administered by a certified  
12 licensed polygraph examiner. The treatment program must be approved  
13 by the Department of Corrections or the Department of Mental Health  
14 and Substance Abuse Services. Such treatment shall be at the  
15 expense of the defendant based on the defendant's ability to pay;

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

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

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

16       B. Notwithstanding any other provision of law, any person who  
17 is found guilty of a violation of any provision of Section 761 or  
18 11-902 of Title 47 of the Oklahoma Statutes or any person pleading  
19 guilty or nolo contendere for a violation of any provision of such  
20 sections shall be ordered to participate in, prior to sentencing, an  
21 alcohol and drug assessment and evaluation by an assessment agency  
22 or assessment personnel certified by the Department of Mental Health  
23 and Substance Abuse Services for the purpose of evaluating the

1 receptivity to treatment and prognosis of the person. The court  
2 shall order the person to reimburse the agency or assessor for the  
3 evaluation. The fee shall be the amount provided in subsection C of  
4 Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation  
5 shall be conducted at a certified assessment agency, the office of a  
6 certified assessor or at another location as ordered by the court.  
7 The agency or assessor shall, within seventy-two (72) hours from the  
8 time the person is assessed, submit a written report to the court  
9 for the purpose of assisting the court in its final sentencing  
10 determination. No person, agency or facility operating an alcohol  
11 and drug substance abuse evaluation program certified by the  
12 Department of Mental Health and Substance Abuse Services shall  
13 solicit or refer any person evaluated pursuant to this subsection  
14 for any treatment program or alcohol and drug substance abuse  
15 service in which such person, agency or facility has a vested  
16 interest; however, this provision shall not be construed to prohibit  
17 the court from ordering participation in or any person from  
18 voluntarily utilizing a treatment program or alcohol and drug  
19 substance abuse service offered by such person, agency or facility.  
20 If a person is sentenced to the custody of the Department of  
21 Corrections and the court has received a written evaluation report  
22 pursuant to this subsection, the report shall be furnished to the  
23 Department of Corrections with the judgment and sentence. Any

1 evaluation report submitted to the court pursuant to this subsection  
2 shall be handled in a manner which will keep such report  
3 confidential from the general public's review. Nothing contained in  
4 this subsection shall be construed to prohibit the court from  
5 ordering judgment and sentence in the event the defendant fails or  
6 refuses to comply with an order of the court to obtain the  
7 evaluation required by this subsection.

8 C. When sentencing a person convicted of a crime, the court  
9 shall first consider a program of restitution for the victim, as  
10 well as imposition of a fine or incarceration of the offender. The  
11 provisions of paragraph 1 of subsection A of this section shall not  
12 apply to defendants being sentenced upon their third or subsequent  
13 to their third conviction of a felony or, beginning January 1, 1993,  
14 to defendants being sentenced for their second or subsequent felony  
15 conviction for violation of Section 11-902 of Title 47 of the  
16 Oklahoma Statutes, except as otherwise provided in this subsection.  
17 In the case of a person being sentenced for their second or  
18 subsequent felony conviction for violation of Section 11-902 of  
19 Title 47 of the Oklahoma Statutes, the court may sentence the person  
20 pursuant to the provisions of paragraph 1 of subsection A of this  
21 section if the court orders the person to submit to electronically  
22 monitored home detention administered and supervised by the  
23 Department of Corrections pursuant to subparagraph e of paragraph 7

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

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

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

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

7 G. 1. The Department of Corrections is hereby authorized,  
8 subject to funds available through appropriation by the Legislature,  
9 to contract with counties for the administration of county Community  
10 Service Sentencing Programs.

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

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

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

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

12           H. As used in this section:

13           1. "Ignition interlock device" means a device that, without  
14 tampering or intervention by another person, would prevent the  
15 defendant from operating a motor vehicle if the defendant has a  
16 blood or breath alcohol concentration of two-hundredths (0.02) or  
17 greater; and

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

1 I. A person convicted of a felony offense or receiving any form  
2 of probation for an offense in which registration is required  
3 pursuant to the Sex Offenders Registration Act shall submit to  
4 deoxyribonucleic acid DNA testing for law enforcement identification  
5 purposes in accordance with Section 150.27 of Title 74 of the  
6 Oklahoma Statutes and the rules promulgated by the Oklahoma State  
7 Bureau of Investigation for the OSBI Combined DNA Index System  
8 (CODIS) Database. Any defendant sentenced to probation shall be  
9 required to submit to testing within thirty (30) days of sentencing  
10 either to the Department of Corrections or to the county sheriff as  
11 directed by the court. Defendants who are sentenced to a term of  
12 incarceration shall submit to testing in accordance with Section  
13 530.1 of Title 57 of the Oklahoma Statutes, for those defendants who  
14 enter the custody of the Department of Corrections or to the county  
15 sheriff, for those defendants sentenced to incarceration in a county  
16 jail. Convicted individuals who have previously submitted to DNA  
17 testing under this section and for whom a valid sample is on file in  
18 the OSBI Combined DNA Index System (CODIS) Database at the time of  
19 sentencing shall not be required to submit to additional testing.  
20 Except as required by the Sex Offenders Registration Act, a deferred  
21 judgment does not require submission to deoxyribonucleic acid  
22 testing.

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

11 J. Samples of blood or saliva for DNA testing required by  
12 subsection I of this section shall be taken by employees or  
13 contractors of the Department of Corrections or the county sheriff  
14 or employees or contractors of the sheriff's office. The  
15 individuals shall be properly trained to collect blood or saliva  
16 samples. Persons collecting blood or saliva for DNA testing  
17 pursuant to this section shall be immune from civil liabilities  
18 arising from this activity. The Department of Corrections and the  
19 county sheriff shall ensure the collection of samples are mailed to  
20 the Oklahoma State Bureau of Investigation within ten (10) days of  
21 the time the subject appears for testing or within ten (10) days of  
22 the date the subject comes into physical custody to serve a term of  
23 incarceration. The Department and the sheriff's office shall use

1 sample kits provided by the OSBI and procedures promulgated by the  
2 OSBI. Persons subject to DNA testing who are not received at the  
3 Lexington Assessment and Reception Center shall be required to pay a  
4 fee of Fifteen Dollars (\$15.00) to the agency collecting the sample  
5 for submission to the OSBI Combined DNA Index System (CODIS)  
6 Database. Any fees collected by the Department of Corrections or  
7 the county sheriff pursuant to this subsection shall be deposited in  
8 the Department of Corrections revolving account or the sheriff's  
9 service fee account.

10 SECTION 2. AMENDATORY Section 4, Chapter 457, O.S.L.  
11 2005 (47 O.S. Supp. 2005, Section 6-105.3), is amended to read as  
12 follows:

13 Section 6-105.3 A. In addition to the licenses to operate  
14 motor vehicles, the Department of Public Safety may issue cards to  
15 Oklahoma residents for purposes of identification only. The  
16 identification cards shall be issued, renewed, canceled and denied  
17 in the same manner as driver licenses in this state. The  
18 application for an identification card by any person under the age  
19 of eighteen (18) shall be signed and verified by a custodial legal  
20 parent or legal guardian before a person authorized to administer  
21 oaths. The Except as otherwise provided in this section, the cards  
22 shall be valid for a period of four (4) years from the month of  
23 issuance; however, the identification cards issued to persons sixty-

1 five (65) years of age or older shall be valid indefinitely from the  
2 month of issuance.

3 B. The fee charged for the issuance or renewal of an  
4 identification card which is not in computerized image format  
5 pursuant to this section shall be Seven Dollars (\$7.00); however, no  
6 person sixty-five (65) years of age or older shall be charged a fee  
7 for an identification card. The fees derived pursuant to this  
8 subsection shall be apportioned as provided in Section 1104 of Title  
9 47 of the Oklahoma Statutes.

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

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

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

22 D. The Oklahoma Tax Commission is hereby authorized to  
23 reimburse, from funds available to that agency, each motor license

1 agent issuing an identification card to a person sixty-five (65)  
2 years of age or older, an amount not to exceed One Dollar (\$1.00)  
3 for each card or driver license so issued. The Tax Commission shall  
4 develop procedures for claims for reimbursement.

5 E. When a person makes application for a new identification  
6 card, or makes application to renew an identification card, and the  
7 person has been convicted of, or received a deferred judgment for,  
8 any offense required to register pursuant to the Sex Offenders  
9 Registration Act, the identification card shall be valid for a  
10 period of one (1) year from the month of issuance, but may be  
11 renewed yearly during the time the person is registered on the Sex  
12 Offender Registry. The cost for such identification card shall be  
13 the same as for other identification cards and renewals.

14 SECTION 3. AMENDATORY 47 O.S. 2001, Section 6-115, as  
15 last amended by Section 40, Chapter 5, O.S.L. 2004 (47 O.S. Supp.  
16 2005, Section 6-115), is amended to read as follows:

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

22 1. Four (4) years; or

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

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

11          C. ~~The~~ Except as otherwise provided in this section, the  
12 expiration date of a renewal license shall be no more than four (4)  
13 years from the last day of the month of expiration of the previous  
14 license or no more than four (4) years from the last day of the  
15 birth month of the licensee immediately preceding the expiration  
16 date of the previous license, if requested by the licensee.

17          D. ~~Every~~ Except as otherwise provided in this section, every  
18 driver license shall be renewable by the licensee upon application  
19 to either the Department of Public Safety or a motor license agent,  
20 furnishing both primary and secondary proofs of identity, the  
21 current mailing address of the person and payment of the required  
22 fee, if the person is otherwise eligible for renewal. If the  
23 licensee is an alien, the licensee shall appear before a driver

1 license examiner of the Department and, after furnishing primary and  
2 secondary proofs of identity as required in this section, shall be  
3 issued a renewal driver license for a period which does not exceed  
4 the lesser of:

5 1. Four (4) years; or

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

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

14 F. When a person makes application for a driver license, or  
15 makes application to renew a driver license, and the person has been  
16 convicted of, or received a deferred judgment for, any offense  
17 required to register pursuant to the Sex Offenders Registration Act,  
18 the driver license shall be valid for a period of one (1) year from  
19 the month of issuance, but may be renewed yearly during the time the  
20 person is registered on the Sex Offender Registry. The cost for  
21 such license shall be the same as for other driver licenses and  
22 renewals.

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

4       SECTION 4.        AMENDATORY        57 O.S. 2001, Section 583, as last  
5 amended by Section 2, Chapter 123, O.S.L. 2005 (57 O.S. Supp. 2005,  
6 Section 583), is amended to read as follows:

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

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

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

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

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

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

9           b. the county sheriff, if the person resides or intends  
10 to reside or stay at any place outside the  
11 jurisdiction of any municipality within this state,  
12 and

13           c. the police or security department of any institution  
14 of higher learning within this state if the person:

15           (1) enrolls as a full-time or part-time student,

16           (2) is a full-time or part-time employee at an  
17 institution of higher learning, or

18           (3) resides or intends to reside or stay on any  
19 property owned or controlled by the institution  
20 of higher learning.

21           B. Any person who has been convicted of an offense or received  
22 a deferred judgment for an offense ~~on or after November 1, 1989,~~ in  
23 another jurisdiction, which offense if committed or attempted in

1 this state, would have been punishable as one or more of the  
2 offenses listed in Section 582 of this title and who enters this  
3 state on or after November 1, 1989, shall be registered as follows:

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

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

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

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

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

19           D. When a person has been convicted or received probation  
20 within the State of Oklahoma and the person is not classified as an  
21 habitual or aggravated sex offender, the person shall be required to  
22 register for a period of ten (10) years from the date of completion  
23 of the sentence and the information received pursuant to the

1 registration with the local law enforcement authority required by  
2 this section shall be maintained by such authority for at least ten  
3 (10) years from the date of the last registration.

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

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

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

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

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

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

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

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

21       8. Inform the offender that if the offender graduates,  
22 transfers, drops, terminates or otherwise changes enrollment or  
23 employment at any school in this state, then the offender shall

1 notify the Department of Corrections and the local law enforcement  
2 authority in writing of such change in enrollment or employment  
3 within three (3) days of the change; and

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

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

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

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

22 2. With the local law enforcement authority having jurisdiction  
23 in the area where the person intends to reside or to stay within

1 this state for two (2) days or longer. The registration is required  
2 with local law enforcement within two (2) days after entering the  
3 jurisdiction of the law enforcement authority.

4 SECTION 5. This act shall become effective July 1, 2006.

5 SECTION 6. It being immediately necessary for the preservation  
6 of the public peace, health and safety, an emergency is hereby  
7 declared to exist, by reason whereof this act shall take effect and  
8 be in full force from and after its passage and approval.

9 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-22-06 - DO  
10 PASS, As Amended and Coauthored.