

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED  
5 SENATE BILL NO. 677

By: Corn of the Senate

and

Duncan of the House

6  
7  
8  
9 COMMITTEE SUBSTITUTE

10 ( crimes and punishments - Trafficking in Illegal

11 Drugs Act - penalties - Department of Corrections -

12 effective date )

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15  
16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. AMENDATORY 21 O.S. 2001, Section 13.1, as  
18 amended by Section 7, Chapter 22, O.S.L. 2002 (21 O.S. Supp. 2006,  
19 Section 13.1), is amended to read as follows:

20 Section 13.1 Persons convicted of:

21 1. First degree murder as defined in Section ~~701.9~~ 701.7 of  
22 this title;

23 2. Second degree murder as defined by Section 701.8 of this  
24 title;

- 1           3. Manslaughter in the first degree as defined by Section 711  
2 of this title;
- 3           4. Poisoning with intent to kill as defined by Section 651 of  
4 this title;
- 5           5. Shooting with intent to kill, use of a vehicle to facilitate  
6 use of a firearm, crossbow or other weapon, assault, battery, or  
7 assault and battery with a deadly weapon or by other means likely to  
8 produce death or great bodily harm, as ~~defined by~~ provided for in  
9 Section 652 of this title;
- 10          6. Assault with intent to kill as ~~defined by~~ provided for in  
11 Section 653 of this title;
- 12          7. Conjoint robbery as defined by Section 800 of this title;
- 13          8. Robbery with a dangerous weapon as defined in Section 801 of  
14 this title;
- 15          9. First degree robbery as defined in Section 797 of this  
16 title;
- 17          10. First degree rape as ~~defined~~ provided for in Section 1115  
18 of this title;
- 19          11. First degree arson as defined in Section 1401 of this  
20 title;
- 21          12. First degree burglary as ~~defined~~ provided for in Section  
22 1436 of this title;
- 23          13. Bombing as defined in Section 1767.1 of this title;
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1 14. Any crime against a child provided for in Section 7115 of  
2 Title 10 of the Oklahoma Statutes;

3 15. Forcible sodomy as defined in Section 888 of this title;

4 16. Child pornography as defined in Section 1021.2, 1021.3 or  
5 1024.1 of this title;

6 17. Child prostitution as defined in Section 1030 of this  
7 title;

8 18. Lewd molestation of a child as defined in Section 1123 of  
9 this title; ~~or~~

10 19. Abuse of a vulnerable adult as defined in Section 10-103 of  
11 Title 43A of the Oklahoma Statutes who is a resident of a nursing  
12 facility; or

13 20. Aggravated trafficking as provided for in subsection C of  
14 Section 2-415 of Title 63 of the Oklahoma Statutes,

15 shall be required to serve not less than eighty-five percent (85%)  
16 of any sentence of imprisonment imposed by the judicial system prior  
17 to becoming eligible for consideration for parole. Persons  
18 convicted of these offenses shall not be eligible for earned credits  
19 or any other type of credits which have the effect of reducing the  
20 length of the sentence to less than eighty-five percent (85%) of the  
21 sentence imposed.

22 SECTION 2. AMENDATORY 63 O.S. 2001, Section 2-414, is  
23 amended to read as follows:

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1 Section 2-414. ~~This act~~ Sections 2-414 through 2-420 of this  
2 title shall be known and may be cited as the "Trafficking in Illegal  
3 Drugs Act".

4 SECTION 3. AMENDATORY 63 O.S. 2001, Section 2-415, as  
5 last amended by Section 9, Chapter 396, O.S.L. 2004 (63 O.S. Supp.  
6 2006, Section 2-415), is amended to read as follows:

7 Section 2-415. A. The provisions of the Trafficking in Illegal  
8 Drugs Act shall apply to persons convicted of violations with  
9 respect to the following substances:

- 10 1. Marihuana;
- 11 2. Cocaine or coca leaves;
- 12 3. Heroin;
- 13 4. Amphetamine or methamphetamine;
- 14 5. Lysergic acid diethylamide (LSD);
- 15 6. Phencyclidine (PCP);
- 16 7. Cocaine base, commonly known as "crack" or "rock"; or
- 17 8. 3,4-Methylenedioxy methamphetamine, commonly known as  
18 "ecstasy" or MDMA.

19 B. Except as otherwise authorized by the Uniform Controlled  
20 Dangerous Substances Act, it shall be unlawful for any person to:

- 21 1. Knowingly distribute, manufacture, bring into this state or  
22 possess a controlled substance specified in subsection A of this  
23 section in the quantities specified in subsection C of this section;  
24 or

1           2. Possess any controlled substance with the intent to  
2 manufacture a controlled substance specified in subsection A of this  
3 section in quantities specified in subsection C of this section; or

4           3. Use or solicit the use of services of a person less than  
5 eighteen (18) years of age to distribute or manufacture a controlled  
6 dangerous substance specified in subsection A of this section in  
7 quantities specified in subsection C of this section.

8           Violation of this section shall be known as "trafficking in  
9 illegal drugs". Separate types of controlled substances described  
10 in subsection A of this section when possessed at the same time in  
11 violation of any provision of this section shall constitute a  
12 separate offense for each substance.

13           Any person who commits the conduct described in paragraph 1, 2  
14 or 3 of this subsection and represents the quantity of the  
15 controlled substance to be an amount described in subsection C of  
16 this section shall be punished under the provisions appropriate for  
17 the amount of controlled substance represented, regardless of the  
18 actual amount.

19           C. In the case of a violation of the provisions of subsection B  
20 of this section, involving:

21           1. Marihuana:

22               a. twenty-five (25) pounds or more of a mixture or  
23               substance containing a detectable amount of marihuana,  
24               such violation shall be punishable by a fine of not

1 less than Twenty-five Thousand Dollars (\$25,000.00)  
2 and not more than One Hundred Thousand Dollars  
3 (\$100,000.00), or

- 4 b. one thousand (1,000) pounds or more of a mixture or  
5 substance containing a detectable amount of marihuana,  
6 such violation shall be deemed aggravated trafficking  
7 punishable by a fine of not less than One Hundred  
8 Thousand Dollars (\$100,000.00) and not more than Five  
9 Hundred Thousand Dollars (\$500,000.00);

10 2. Cocaine or coca leaves:

- 11 a. twenty-eight (28) grams or more of a mixture or  
12 substance containing a detectable amount of cocaine or  
13 coca leaves, such violation shall be punishable by a  
14 fine of not less than Twenty-five Thousand Dollars  
15 (\$25,000.00) and not more than One Hundred Thousand  
16 Dollars (\$100,000.00), ~~or~~  
17 b. three hundred (300) grams or more of a mixture or  
18 substance containing a detectable amount of cocaine or  
19 coca leaves, such violation shall be punishable by a  
20 fine of not less than One Hundred Thousand Dollars  
21 (\$100,000.00) and not more than Five Hundred Thousand  
22 Dollars (\$500,000.00), or  
23 c. one (1) pound or more of a mixture or substance  
24 containing a detectable amount of cocaine or coca

1 leaves, such violation shall be deemed aggravated  
2 trafficking punishable by a fine of not less than One  
3 Hundred Thousand Dollars (\$100,000.00) and not more  
4 than Five Hundred Thousand Dollars (\$500,000.00);

5 3. Heroin:

- 6 a. ten (10) grams or more of a mixture or substance  
7 containing a detectable amount of heroin, such  
8 violation shall be punishable by a fine of not less  
9 than Twenty-five Thousand Dollars (\$25,000.00) and not  
10 more than Fifty Thousand Dollars (\$50,000.00), or  
11 b. twenty-eight (28) grams or more of a mixture or  
12 substance containing a detectable amount of heroin,  
13 such violation shall be punishable by a fine of not  
14 less than Fifty Thousand Dollars (\$50,000.00) and not  
15 more than Five Hundred Thousand Dollars (\$500,000.00);

16 4. Amphetamine or methamphetamine:

- 17 a. twenty (20) grams or more of a mixture or substance  
18 containing a detectable amount of amphetamine or  
19 methamphetamine, such violation shall be punishable by  
20 a fine of not less than Twenty-five Thousand Dollars  
21 (\$25,000.00) and not more than Two Hundred Thousand  
22 Dollars (\$200,000.00), ~~or~~  
23 b. two hundred (200) grams or more of a mixture or  
24 substance containing a detectable amount of

1           amphetamine or methamphetamine, such violation shall  
2           be punishable by a fine of not less than Fifty  
3           Thousand Dollars (\$50,000.00) and not more than Five  
4           Hundred Thousand Dollars (\$500,000.00), or

5           c. one (1) pound or more of a mixture or substance  
6           containing a detectable amount of amphetamine or  
7           methamphetamine, such violation shall be deemed  
8           aggravated trafficking punishable by a fine of not  
9           less than Fifty Thousand Dollars (\$50,000.00) and not  
10           more than Five Hundred Thousand Dollars (\$500,000.00);

11       5. Lysergic acid diethylamide (LSD):

12           a. if the quantity involved is not less than fifty (50)  
13           dosage units and not more than one thousand (1,000)  
14           dosage units, such violation shall be punishable by a  
15           fine of not less than Fifty Thousand Dollars  
16           (\$50,000.00) and not more than One Hundred Thousand  
17           Dollars (\$100,000.00), or

18           b. if the quantity involved is more than one thousand  
19           (1,000) dosage units, such violation shall be  
20           punishable by a fine of not less than One Hundred  
21           Thousand Dollars (\$100,000.00) and not more than Two  
22           Hundred Fifty Thousand Dollars (\$250,000.00);

23       6. Phencyclidine (PCP):

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- 1 a. one (1) ounce or more of a substance containing a  
2 mixture or substance containing a detectable amount of  
3 phencyclidine (PCP), such violation shall be  
4 punishable by a fine of not less than Twenty Thousand  
5 Dollars (\$20,000.00) and not more than Fifty Thousand  
6 Dollars (\$50,000.00), or  
7 b. eight (8) ounces or more of a substance containing a  
8 mixture or substance containing a detectable amount of  
9 phencyclidine (PCP), such violation shall be  
10 punishable by a fine of not less than Fifty Thousand  
11 Dollars (\$50,000.00) and not more than Two Hundred  
12 Fifty Thousand Dollars (\$250,000.00);

13 7. Cocaine base:

- 14 a. five (5) grams or more of a mixture or substance  
15 described in paragraph 2 of this subsection which  
16 contains cocaine base, such violation shall be  
17 punishable by a fine of not less than Twenty-five  
18 Thousand Dollars (\$25,000.00) and not more than One  
19 Hundred Thousand Dollars (\$100,000.00), or  
20 b. fifty (50) grams or more of a mixture or substance  
21 described in paragraph 2 of this subsection which  
22 contains cocaine base, such violation shall be  
23 punishable by a fine of not less than One Hundred  
24

1           Thousand Dollars (\$100,000.00) and not more than Five  
2           Hundred Thousand Dollars (\$500,000.00); and

3       8. Methylenedioxy methamphetamine:

4           a.   thirty (30) tablets or ten (10) grams of a mixture or  
5           substance containing a detectable amount of 3,4-  
6           Methylenedioxy methamphetamine, such violation shall  
7           be punishable by a fine of not less than Twenty-five  
8           Thousand Dollars (\$25,000.00) and not more than One  
9           Hundred Thousand Dollars (\$100,000.00), or

10          b.   one hundred (100) tablets or thirty (30) grams of a  
11          mixture or substance containing a detectable amount of  
12          3,4-Methylenedioxy methamphetamine, such violation  
13          shall be punishable by a fine of not less than One  
14          Hundred Thousand Dollars (\$100,000.00) and not more  
15          than Five Hundred Thousand Dollars (\$500,000.00).

16       D. Any person who violates the provisions of this section with  
17       respect to a controlled substance specified in subsection A of this  
18       section in a quantity specified in subsection C of this section  
19       shall, in addition to any fines specified by this section, be  
20       punishable by a term of imprisonment as follows:

21           1. Not less than twice the term of imprisonment provided for in  
22       Section 2-401 of this title;

23           2. If the person has previously been convicted of one violation  
24       of this section or has been previously convicted of a felony

1 violation of the Uniform Controlled Dangerous Substances Act arising  
2 from separate and distinct transactions, not less than three times  
3 the term of imprisonment provided for in Section 2-401 of this  
4 title; and

5 3. If the person has previously been convicted of two or more  
6 violations of this section or any provision of the Uniform  
7 Controlled Dangerous Substances Act which constitutes a felony, or a  
8 combination of such violations arising out of separate and distinct  
9 transactions, life without parole; and

10 4. If the person is convicted of aggravated trafficking as  
11 provided in subparagraph b of paragraph 1 of subsection C of this  
12 section, subparagraph c of paragraph 2 of subsection C of this  
13 section or subparagraph c of paragraph 4 of subsection C of this  
14 section, a mandatory minimum sentence of imprisonment in the custody  
15 of the Department of Corrections for a term of fifteen (15) years of  
16 which the person shall serve eighty-five percent (85%) of such  
17 mandatory sentence before being eligible for parole consideration or  
18 any earned credits.

19 The terms of imprisonment specified in this subsection shall not  
20 be subject to statutory provisions for suspension, deferral or  
21 probation, or state correctional institution earned credits accruing  
22 from and after November 1, 1989, except for the achievement earned  
23 credits authorized by subsection H of Section 138 of Title 57 of the  
24 Oklahoma Statutes. To qualify for such achievement credits, such

1 inmates must also be in compliance with the standards for Class  
2 level 2 behavior, as defined in subsection D of Section 138 of Title  
3 57 of the Oklahoma Statutes.

4 Persons convicted of violations of this section shall not be  
5 eligible for appeal bonds.

6 E. Any person convicted of any offense described in this  
7 section shall, in addition to any fine imposed, pay a special  
8 assessment trauma-care fee of One Hundred Dollars (\$100.00) to be  
9 deposited into the Trauma Care Assistance Revolving Fund created in  
10 Section ~~1-2522~~ 1-2530.9 of this title and the assessment pursuant to  
11 Section 2-503.2 of this title.

12 SECTION 4. AMENDATORY 63 O.S. 2001, Section 2-420, is  
13 amended to read as follows:

14 Section 2-420. A. Any person ~~convicted of any crime which may~~  
15 ~~be related in any manner to any controlled dangerous substance shall~~  
16 ~~be reported to the Department of Corrections~~ charged with aggravated  
17 trafficking pursuant to Section 2-415 of this title shall not be  
18 subject to pretrial release as specified in Section 1105.3 of Title  
19 22 of the Oklahoma Statutes and shall not be released on bail  
20 without a Global Positioning System (GPS) monitoring device attached  
21 to the person and cost thereof paid by such person at his or her own  
22 expense until after the conclusion of the criminal case. The  
23 Department of Corrections shall monitor such GPS monitoring device  
24 and the person until the conclusion of the case, and the person

1 shall pay a supervision fee as provided for other persons subject to  
2 supervision by the Department. At the conclusion of the case, the  
3 court shall order the removal of the GPS monitoring device if the  
4 person is acquitted or is to be incarcerated or the case is  
5 dismissed.

6 B. The Department of Corrections shall maintain statistical  
7 records on any aggravated trafficking offense related to controlled  
8 dangerous substances, including a calculation of the time period  
9 from arrest to disposition, and if the person is convicted, the term  
10 of sentence, length of sentence actually served in incarceration,  
11 amount of the fine imposed, whether any enhancements or co-occurring  
12 offenses were involved, whether the person is determined upon  
13 reception into the custody of the Department to be an addicted  
14 person, and whether the person has prior convictions by stating the  
15 prior offenses.

16 SECTION 5. This act shall become effective November 1, 2007.

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18 51-1-7598 GRS 03/26/07

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