ENGROSSED HOUSE
BILL NO. 1760

By: Blackwell and Reynolds of the House

and

Lamb of the Senate

(sex offenders - supervision requirement for certain crimes - probation provision - determination of numeric risk level prior to release - registration requirements - records - codification - effective date)

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

SECTION 1. AMENDATORY 10 O.S. 2001, Section 7115, as last amended by Section 1, Chapter 326, O.S.L. 2006 (10 O.S. Supp. 2006, Section 7115), is amended to read as follows:

Section 7115. A. Any parent or other person who shall willfully or maliciously engage in child abuse shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars

($500.00) nor more than Five Thousand Dollars ($5,000.00), or both such fine and imprisonment. As used in this subsection, "child abuse" means the willful or malicious abuse, as defined by paragraph 1 of subsection B of Section 7102 of this title, of a child under eighteen (18) years of age by another, or the act of willfully or maliciously injuring, torturing or maiming a child under eighteen (18) years of age by another.

B. Any parent or other person who shall willfully or maliciously engage in enabling child abuse shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00) or both such fine and imprisonment. As used in this subsection, "enabling child abuse" means the causing, procuring or permitting of a willful or malicious act of child abuse, as defined by paragraph 1 of subsection B of Section 7102 of this title, of a child under eighteen (18) years of age by another. As used in this subsection, "permit" means to authorize or allow for the care of a child by an individual when the person authorizing or allowing such care knows or reasonably should know that the child will be placed at risk of abuse as proscribed by this subsection.

C. Any parent or other person who shall willfully or maliciously engage in child neglect shall, upon conviction, be

punished by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00), or both such fine and imprisonment. As used in this subsection, "child neglect" means the willful or malicious neglect, as defined by paragraph 3 of subsection B of Section 7102 of this title, of a child under eighteen (18) years of age by another.

D. Any parent or other person who shall willfully or maliciously engage in enabling child neglect shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00), or both such fine and imprisonment. As used in this subsection, "enabling child neglect" means the causing, procuring or permitting of a willful or malicious act of child neglect, as defined by paragraph 3 of subsection B of Section 7102 of this title, of a child under eighteen (18) years of age by another. As used in this subsection, "permit" means to authorize or allow for the care of a child by an individual when the person authorizing or allowing such care knows or reasonably should know

that the child will be placed at risk of neglect as proscribed by this subsection.

E. Any parent or other person who shall willfully or maliciously engage in child sexual abuse shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00), or both such fine and imprisonment, except as provided in Section 51.1a of Title 21 of the Oklahoma Statutes. Except for persons sentenced to life or life without parole, any parent or other person sentenced to more than two (2) years of imprisonment for a violation of this subsection shall serve a split sentence as defined in Section 22 of this act. A minimum of three (3) years of the sentence that is not a term of imprisonment shall be under intensive supervision pursuant to subsection E of Section 991a of Title 22 of the Oklahoma Statutes and any other special conditions developed for sex offenders as determined by the Department of Corrections. The jury shall be advised of the mandatory three (3) years of supervision that is not part of imprisonment. As used in this section, "child sexual abuse" means the willful or malicious sexual abuse, as defined by paragraph 6 of subsection B of Section 7102 of this title, of a child under eighteen (18) years of age by another.

F. Any parent or other person who shall willfully or maliciously engage in enabling child sexual abuse shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00), or both such fine and imprisonment. As used in this subsection, "enabling child sexual abuse" means the causing, procuring or permitting of a willful or malicious act of child sexual abuse, as defined by paragraph 6 of subsection B of Section 7102 of this title, of a child under the age of eighteen (18) by another. As used in this subsection, "permit" means to authorize or allow for the care of a child by an individual when the person authorizing or allowing such care knows or reasonably should know that the child will be placed at risk of sexual abuse as proscribed by this subsection.

G. Any parent or other person who shall willfully or maliciously engage in child sexual exploitation shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00), or both such fine and imprisonment. <u>Except for persons sentenced to life or life without</u>

parole, any parent or other person sentenced to more than two (2) years of imprisonment for a violation of this subsection shall serve a split sentence as defined in Section 22 of this act. A minimum of three (3) years of the sentence that is not a term of imprisonment shall be under intensive supervision pursuant to subsection E of Section 991a of Title 22 of the Oklahoma Statutes and any other special conditions developed for sex offenders as determined by the Department of Corrections. The jury shall be advised of the mandatory three (3) years of supervision that is not part of imprisonment. As used in this subsection, "child sexual exploitation" means the willful or malicious sexual exploitation, as defined by paragraph 7 of subsection B of Section 7102 of this title, of a child under eighteen (18) years of age by another.

H. Any parent or other person who shall willfully or maliciously engage in enabling child sexual exploitation shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00), or both such fine and imprisonment. As used in this subsection, "enabling child sexual exploitation" means the causing, procuring or permitting of a willful or malicious act of child sexual exploitation, as defined by paragraph 7 of subsection B of Section 7102 of this title, of a

child under eighteen (18) years of age by another. As used in this subsection, "permit" means to authorize or allow for the care of a child by an individual when the person authorizing or allowing such care knows or reasonably should know that the child will be placed at risk of sexual exploitation as proscribed by this subsection.

I. Notwithstanding any other provision of law, any parent or other person convicted of forcible anal or oral sodomy, rape, rape by instrumentation, or lewd molestation of a child under fourteen (14) years of age subsequent to a previous conviction for any offense of forcible anal or oral sodomy, rape, rape by instrumentation, or lewd molestation of a child under fourteen (14) years of age shall be punished by death or by imprisonment for life without parole.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 446 of Title 21, unless there is created a duplication in numbering, reads as follows:

Any person who has been committed to the custody of the Department of Corrections pursuant to Section 37 of this act and who escapes from said custody, either while actually confined or while assigned to a transitional or conditional release program shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for not less than two (2) years nor more than seven (7) years.

SECTION 3. AMENDATORY 21 O.S. 2001, Section 681, is amended to read as follows:

Section 681. A. Any person who is guilty of an assault with intent to commit any felony, except an assault with intent to kill, the punishment for which assault is not otherwise prescribed in this code, shall be guilty of a felony punishable by imprisonment in the State Penitentiary not exceeding five (5) years, or in a county jail not exceeding one (1) year, or by a fine not exceeding Five Hundred Dollars ($500.00), or by both such fine and imprisonment.

B. Except for persons sentenced to life or life without parole, any person convicted of sexual assault under this section and sentenced to more than two (2) years of imprisonment shall serve a split sentence as defined in Section 22 of this act. A minimum of three (3) years of the sentence that is not a term of imprisonment shall be under intensive supervision pursuant to subsection E of Section 991a of Title 22 of the Oklahoma Statutes and any other special conditions developed for sex offenders as determined by the Department of Corrections. The jury shall be advised of the mandatory three (3) years of supervision that is not part of imprisonment.

SECTION 4. AMENDATORY 21 O.S. 2001, Section 741, as amended by Section 3, Chapter 275, O.S.L. 2004 (21 O.S. Supp. 2006, Section 741), is amended to read as follows:

Section 741. Any person who, without lawful authority, forcibly seizes and confines another, or inveigles or kidnaps another, with intent, either:

First. To cause such other person to be confined or imprisoned in this state against the will of the other person; or

Second. To cause such other person to be sent out of this state against the will of the other person; or

Third. To cause such person to be sold as a slave, or in any way held to service against the will of such person, shall be guilty of a felony punishable by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections not exceeding ten (10) years. Upon any trial for a violation of this section, the consent thereto of the person kidnapped or confined, shall not be a defense, unless it appears satisfactorily to the jury, that such person was above the age of twelve (12) years, and that such consent was not extorted by threat, or by duress.

Except for persons sentenced to life or life without parole, any person convicted of violating this section where said offense involved sexual abuse or sexual exploitation and the person is sentenced to more than two (2) years of imprisonment shall serve a split sentence as defined in Section 22 of this act. A minimum of three (3) years of the sentence that is not a term of imprisonment shall be under intensive supervision pursuant to subsection E of Section 991a of Title 22 of the Oklahoma Statutes and any other

special conditions developed for sex offenders as determined by the Department of Corrections. The jury shall be advised of the mandatory three (3) years of supervision that is not part of imprisonment.

SECTION 5. AMENDATORY 21 O.S. 2001, Section 843.1, as amended by Section 8, Chapter 22, O.S.L. 2002 (21 O.S. Supp. 2006, Section 843.1), is amended to read as follows:

Section 843.1 A. 1. No caretaker or other person shall abuse, neglect, commit sexual abuse, or exploit any person entrusted to the care of such caretaker or other person in a nursing facility or other setting, or knowingly cause, secure, or permit any of these acts to be done.

2. For purposes of this section, the terms, "abuse", "neglect", "sexual abuse", and "exploit" shall have the same meaning as such terms are defined and clarified in Section 10-103 of Title 43A of the Oklahoma Statutes.

B. 1. Any person convicted of a violation of this section, except as provided in paragraph 2 of this subsection, shall be guilty of a felony. The violator, upon conviction, shall be punished by imprisonment in the State Penitentiary for a term not to exceed ten (10) years, and by a fine not exceeding Ten Thousand Dollars ($10,000.00), or by both such fine and imprisonment. Such person's term shall further be subject to the provisions of Section 13.1 of this title.

2. Any person convicted of violating the provisions of this section by committing sexual abuse shall be guilty of a felony. The person convicted of sexual abuse shall be punished by imprisonment in the State Penitentiary for a term not to exceed fifteen (15) years, and by a fine not exceeding Ten Thousand Dollars ($10,000.00), or by both such fine and imprisonment.

C. Consent shall not be a defense for any violation of this section.

D. Except for persons sentenced to life or life without parole, any person convicted of violating this section where said offense involved sexual abuse or sexual exploitation and the person is sentenced to more than two (2) years of imprisonment shall serve a split sentence as defined in Section 22 of this act. A minimum of three (3) years of the sentence that is not a term of imprisonment shall be under intensive supervision pursuant to subsection E of Section 991a of Title 22 of the Oklahoma Statutes and any other special conditions developed for sex offenders as determined by the Department of Corrections. The jury shall be advised of the mandatory three (3) years of supervision that is not part of imprisonment.

SECTION 6. AMENDATORY 21 O.S. 2001, Section 867, is amended to read as follows:

Section 867. A. The first conviction of the crime of trafficking in children by any person shall be a felony and

punishable by imprisonment in the State Penitentiary for not less than one (1) year nor for more than three (3) years.

B. Conviction of the crime of trafficking in children, subsequent to a prior conviction for such offense in any form, shall be a felony and punishable by imprisonment in the State Penitentiary for not less than three (3) years. No suspension of judgment or sentence shall be permitted.

C. Except for persons sentenced to life or life without parole, any person convicted of violating this section and sentenced to more than two (2) years of imprisonment shall serve a split sentence as defined in Section 22 of this act. A minimum of three (3) years of the sentence that is not a term of imprisonment shall be under intensive supervision pursuant to subsection E of Section 991a of Title 22 of the Oklahoma Statutes and any other special conditions developed for sex offenders as determined by the Department of Corrections. The jury shall be advised of the mandatory three (3) years of supervision that is not part of imprisonment.

SECTION 7. AMENDATORY 21 O.S. 2001, Section 885, is amended to read as follows:

Section 885. Persons who, being within the degrees of consanguinity within which marriages are by the laws of the state declared incestuous and void, intermarry with each other, or commit adultery or fornication with each other, shall be guilty of a felony punishable by imprisonment in the State Penitentiary not exceeding

ten (10) years. Except for persons sentenced to life or life without parole, any person convicted of violating this section and sentenced to more than two (2) years of imprisonment shall serve a split sentence as defined in Section 22 of this act. A minimum of three (3) years of the sentence that is not a term of imprisonment shall be under intensive supervision pursuant to subsection E of Section 991a of Title 22 of the Oklahoma Statutes and any other special conditions developed for sex offenders as determined by the Department of Corrections. The jury shall be advised of the mandatory three (3) years of supervision that is not part of imprisonment.

SECTION 8. AMENDATORY 21 O.S. 2001, Section 886, as amended by Section 8, Chapter 460, O.S.L. 2002 (21 O.S. Supp. 2006, Section 886), is amended to read as follows:

Section 886. Every person who is guilty of the detestable and abominable crime against nature, committed with mankind or with a beast, is punishable by imprisonment in the penitentiary not exceeding ten (10) years. Except for persons sentenced to life or life without parole, any person convicted of violating this section and sentenced to more than two (2) years of imprisonment shall serve a split sentence as defined in Section 22 of this act. A minimum of three (3) years of the sentence that is not a term of imprisonment shall be under intensive supervision pursuant to subsection E of Section 991a of Title 22 of the Oklahoma Statutes and any other

special conditions developed for sex offenders as determined by the Department of Corrections. The jury shall be advised of the mandatory three (3) years of supervision that is not part of imprisonment.

SECTION 9. AMENDATORY 21 O.S. 2001, Section 888, as last amended by Section 4, Chapter 62, O.S.L. 2006 (21 O.S. Supp. 2006, Section 888), is amended to read as follows:

Section 888. A. Any person who forces another person to engage in the detestable and abominable crime against nature, pursuant to Section 886 of this title, upon conviction, is guilty of a felony punishable by imprisonment in the State Penitentiary for a period of not more than twenty (20) years. Except for persons sentenced to life or life without parole, any person convicted of violating this section and sentenced to more than two (2) years of imprisonment shall serve a split sentence as defined in Section 22 of this act. A minimum of three (3) years of the sentence that is not a term of imprisonment shall be under intensive supervision pursuant to subsection E of Section 991a of Title 22 of the Oklahoma Statutes and any other special conditions developed for sex offenders as determined by the Department of Corrections. The jury shall be advised of the mandatory three (3) years of supervision that is not part of imprisonment. Any person convicted of a second violation of this section, where the victim of the second offense is a person under sixteen (16) years of age, shall not be eligible for

probation, suspended or deferred sentence. Any person convicted of a third or subsequent violation of this section, where the victim of the third or subsequent offense is a person under sixteen (16) years of age, shall be punished by imprisonment in the State Penitentiary for a term of life or life without parole, in the discretion of the jury, or in case the jury fails or refuses to fix punishment then the same shall be pronounced by the court. 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, a violation of Section 1123 of this title or 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 said offenses, shall be punished by imprisonment in the State Penitentiary for a term of life or life without parole.

B. The crime of forcible sodomy shall include:

1. Sodomy committed by a person over eighteen (18) years of age upon a person under sixteen (16) years of age; or

2. Sodomy committed upon a person incapable through mental illness or any unsoundness of mind of giving legal consent regardless of the age of the person committing the crime; or

3. Sodomy accomplished with any person by means of force, violence, or threats of force or violence accompanied by apparent power of execution regardless of the age of the victim or the person committing the crime; or

4. Sodomy 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; or

5. Sodomy committed upon a person who is at least sixteen (16) years of age but less than twenty (20) years of age and is a student of any public or private secondary school, junior high or high school, or public vocational school, with a person who is eighteen (18) years of age or older and is employed by the same school system.

SECTION 10. AMENDATORY 21 O.S. 2001, Section 891, is amended to read as follows:

Section 891. Whoever maliciously, forcibly or fraudulently takes or entices away any child under the age of sixteen (16) years, with intent to detain and conceal such child from its parent, guardian or other person having the lawful charge of such child or to transport such child from the jurisdiction of this state or the United States without the consent of the person having lawful charge of such child shall, upon conviction, be guilty of a felony punishable by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections not exceeding ten (10) years.

Except for persons sentenced to life or life without parole, any person convicted of violating this section and sentenced to more than two (2) years of imprisonment shall serve a split sentence as defined in Section 22 of this act. A minimum of three (3) years of the sentence that is not a term of imprisonment shall be under intensive supervision pursuant to subsection E of Section 991a of Title 22 of the Oklahoma Statutes and any other special conditions developed for sex offenders as determined by the Department of Corrections. The jury shall be advised of the mandatory three (3) years of supervision that is not part of imprisonment.

SECTION 11. AMENDATORY 21 O.S. 2001, Section 1021, as last amended by Section 1, Chapter 308, O.S.L. 2003 (21 O.S. Supp. 2006, Section 1021), is amended to read as follows:

Section 1021. A. Every person who willfully and knowingly either:

1. Lewdly exposes his person or genitals in any public place, or in any place where there are present other persons to be offended or annoyed thereby;

2. Procures, counsels, or assists any person to expose such person, or to make any other exhibition of such person to public view or to the view of any number of persons, for the purpose of sexual stimulation of the viewer;

3. Writes, composes, stereotypes, prints, photographs, designs, copies, draws, engraves, paints, molds, cuts, or otherwise prepares,

publishes, sells, distributes, keeps for sale, knowingly downloads on a computer, or exhibits any obscene material or child pornography; or

4. Makes, prepares, cuts, sells, gives, loans, distributes, keeps for sale, or exhibits any disc record, metal, plastic, or wax, wire or tape recording, or any type of obscene material or child pornography,

shall be guilty, upon conviction, of a felony and shall be punished by the imposition of a fine of not less than Five Hundred Dollars ($500.00) nor more than Twenty Thousand Dollars ($20,000.00) or by imprisonment for not less than thirty (30) days nor more than ten (10) years, or by both such fine and imprisonment.

B. Every person who:

1. Willfully solicits or aids a minor child to perform; or

2. Shows, exhibits, loans, or distributes to a minor child any obscene material or child pornography for the purpose of inducing said minor to participate in, any act specified in paragraphs 1, 2, 3 or 4 of subsection A of this section shall be guilty, upon conviction, of a felony and shall be punished by imprisonment in a state correctional institution for not less than ten (10) years nor more than thirty (30) years.

C. Persons convicted under this section shall not be eligible for a deferred sentence.

D. Except for persons sentenced to life or life without parole, any person convicted of violating this section and sentenced to more than two (2) years of imprisonment shall serve a split sentence as defined in Section 22 of this act. A minimum of three (3) years of the sentence that is not a term of imprisonment shall be under intensive supervision pursuant to subsection E of Section 991a of Title 22 of the Oklahoma Statutes and any other special conditions developed for sex offenders as determined by the Department of Corrections. The jury shall be advised of the mandatory three (3) years of supervision that is not part of imprisonment.

E. For purposes of this section, "downloading on a computer" means electronically transferring an electronic file from one computer or electronic media to another computer or electronic media.

SECTION 12. AMENDATORY 21 O.S. 2001, Section 1021.2, is amended to read as follows:

Section 1021.2 A. Any person who shall procure or cause the participation of any minor under the age of eighteen (18) years in any child pornography or who knowingly possesses, procures, or manufactures, or causes to be sold or distributed any child pornography shall be guilty, upon conviction, of a felony and shall be punished by imprisonment for not more than twenty (20) years or by the imposition of a fine of not more than Twenty-five Thousand Dollars ($25,000.00) or by both said fine and imprisonment. Persons

convicted under this section shall not be eligible for a deferred sentence. Except for persons sentenced to life or life without parole, any person convicted of violating this section and sentenced to more than two (2) years of imprisonment shall serve a split sentence as defined in Section 22 of this act. A minimum of three (3) years of the sentence that is not a term of imprisonment shall be under intensive supervision pursuant to subsection E of Section 991a of Title 22 of the Oklahoma Statutes and any other special conditions developed for sex offenders as determined by the Department of Corrections. The jury shall be advised of the mandatory three (3) years of supervision that is not part of imprisonment.

B. The consent of the minor, or of the mother, father, legal guardian, or custodian of the minor to the activity prohibited by this section shall not constitute a defense.

SECTION 13. AMENDATORY 21 O.S. 2001, Section 1021.3, is amended to read as follows:

Section 1021.3 A. Any parent, guardian or individual having custody of a minor under the age of eighteen (18) years who knowingly permits or consents to the participation of a minor in any child pornography shall be guilty of a felony and, upon conviction, shall be imprisoned in the ~~State Penitentiary~~ custody of the Department of Corrections for a period of not more than twenty (20) years or a fine of not more than Twenty-five Thousand Dollars

($25,000.00) or by both such fine and imprisonment. Persons convicted under this section shall not be eligible for a deferred sentence. Except for persons sentenced to life or life without parole, any person convicted of violating this section and sentenced to more than two (2) years of imprisonment shall serve a split sentence as defined in Section 22 of this act. A minimum of three (3) years of the sentence that is not a term of imprisonment shall be under intensive supervision pursuant to subsection E of Section 991a of Title 22 of the Oklahoma Statutes and any other special conditions developed for sex offenders as determined by the Department of Corrections. The jury shall be advised of the mandatory three (3) years of supervision that is not part of imprisonment.

B. The consent of the minor to the activity prohibited by this section shall not constitute a defense.

SECTION 14. AMENDATORY 21 O.S. 2001, Section 1040.13a, as last amended by Section 2, Chapter 183, O.S.L. 2006 (21 O.S. Supp. 2006, Section 1040.13a), is amended to read as follows:

Section 1040.13a A. It is unlawful for any person to facilitate, encourage, offer or solicit sexual conduct with a minor, or other individual the person believes to be a minor, by use of any technology, or to engage in any communication for sexual or prurient interest with any minor, or other individual the person believes to be a minor, by use of any technology. For purposes of this

subsection, "by use of any technology" means the use of any telephone or cell phone, computer disk (CD), digital video disk (DVD), recording or sound device, CD-ROM, VHS, computer, computer network or system, Internet or World Wide Web address including any blog site or personal web address, e-mail address, Internet Protocol address (IP), text messaging or paging device, any video, audio, photographic or camera device of any computer, computer network or system, cell phone, any other electrical, electronic, computer or mechanical device, or any other device capable of any transmission of any written or text message, audio or sound message, photographic, video, movie, digital or computer-generated image, or any other communication of any kind by use of an electronic device.

B. A person is guilty of violating the provisions of this section if the person knowingly transmits any prohibited communication by use of any technology defined herein, or knowingly prints, publishes or reproduces by use of any technology described herein any prohibited communication, or knowingly buys, sells, receives, exchanges, or disseminates any prohibited communication or any information, notice, statement, website, or advertisement for communication with a minor or access to any name, telephone number, cell phone number, e-mail address, Internet address, text message address, place of residence, physical characteristics or other descriptive or identifying information of a minor, or other individual the person believes to be a minor.

C. 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.

D. Any violation of the provisions of this section shall be a felony, punishable by a fine in an amount not to exceed Ten Thousand Dollars ($10,000.00), or by imprisonment in the custody of the Department of Corrections for a term of not more than ten (10) years, or by both such fine and imprisonment. For purposes of this section, each communication shall constitute a separate offense. Except for persons sentenced to life or life without parole, any person convicted of violating this section and sentenced to more than two (2) years of imprisonment shall serve a split sentence as defined in Section 22 of this act. A minimum of three (3) years of the sentence that is not a term of imprisonment shall be under intensive supervision pursuant to subsection E of Section 991a of Title 22 of the Oklahoma Statutes and any other special conditions developed for sex offenders as determined by the Department of Corrections. The jury shall be advised of the mandatory three (3) years of supervision that is not part of imprisonment.

E. For purposes of any criminal prosecution pursuant to any violation of this section, the person violating the provisions of this section shall be deemed to be within the jurisdiction of this state by the fact of accessing any computer, cellular phone or other

computer-related or satellite-operated device in this state, regardless of the actual jurisdiction where the violator resides.

SECTION 15. AMENDATORY 21 O.S. 2001, Section 1087, is amended to read as follows:

Section 1087. A. No person shall:

1. Offer, or offer to secure, a child under eighteen (18) years of age for the purpose of prostitution, or for any other lewd or indecent act, or procure or offer to procure a child for, or a place for a child as an inmate in, a house of prostitution or other place where prostitution is practiced;

2. Receive or to offer or agree to receive any child under eighteen (18) years of age into any house, place, building, other structure, vehicle, trailer, or other conveyance for the purpose of prostitution, lewdness, or assignation, or to permit any person to remain there for such purpose; or

3. Direct, take, or transport, or to offer or agree to take or transport, or aid or assist in transporting, any child under eighteen (18) years of age to any house, place, building, other structure, vehicle, trailer, or other conveyance, or to any other person with knowledge or having reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation~~;~~.

B. 1. Any person violating the provisions of this section shall, upon conviction, be guilty of a felony punishable by

imprisonment of not less than one (1) year nor more than ten (10) years.

2. Any owner, proprietor, keeper, manager, conductor, or other person who knowingly permits any violation of this section in any house, building, room, or other premises or any conveyances under his control or of which he has possession shall, upon conviction for the first offense, be guilty of a misdemeanor and punishable by imprisonment in the county jail for a period of not less than six (6) months nor more than one (1) year, and by a fine of not less than Five Hundred Dollars ($500.00) nor more than Five Thousand Dollars ($5,000.00). Upon conviction for a subsequent offense pursuant to this subsection such person shall be guilty of a felony and shall be punished by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections for a period of not less than one (1) year nor more than ten (10) years, or by a fine of not less than Five Thousand Dollars ($5,000.00) nor more than Twenty-five Thousand Dollars ($25,000.00) or by both such fine and imprisonment.

C. Except for persons sentenced to life or life without parole, any person convicted of violating this section and sentenced to more than two (2) years of imprisonment shall serve a split sentence as defined in Section 22 of this act. A minimum of three (3) years of the sentence that is not a term of imprisonment shall be under intensive supervision pursuant to subsection E of Section 991a of

Title 22 of the Oklahoma Statutes and any other special conditions developed for sex offenders as determined by the Department of Corrections. The jury shall be advised of the mandatory three (3) years of supervision that is not part of imprisonment.

SECTION 16. AMENDATORY 21 O.S. 2001, Section 1088, is amended to read as follows:

Section 1088. A. No person shall:

1. By promise, threats, violence, or by any device or scheme, including but not limited to the use of any controlled dangerous substance prohibited pursuant to the provisions of the Uniform Controlled Dangerous Substances Act, cause, induce, persuade, or encourage a child under eighteen (18) years of age to engage or continue to engage in prostitution or to become or remain an inmate of a house of prostitution or other place where prostitution is practiced;

2. Keep, hold, detain, restrain, or compel against his will, any child under eighteen (18) years of age to engage in the practice of prostitution or in a house of prostitution or other place where prostitution is practiced or allowed;

3. Directly or indirectly keep, hold, detain, restrain, or compel or attempt to keep, hold, detain, restrain, or compel a child under eighteen (18) years of age to engage in the practice of prostitution or in a house of prostitution or any place where prostitution is practiced or allowed for the purpose of compelling

such child to directly or indirectly pay, liquidate, or cancel any debt, dues, or obligations incurred, or said to have been incurred by such child.

B. 1. Any person violating the provisions of this section other than paragraph 2 of this subsection, upon conviction, shall be guilty of a felony punishable by imprisonment for not less than one (1) year nor more than twenty-five (25) years, and by a fine of not less than Five Thousand Dollars ($5,000.00) nor more than Twenty-five Thousand Dollars ($25,000.00).

2. Any owner, proprietor, keeper, manager, conductor, or other person who knowingly permits a violation of this section in any house, building, room, tent, lot or premises under his control or of which he has possession, upon conviction for the first offense, shall be guilty of a misdemeanor punishable by imprisonment in the county jail for a period of not less than six (6) months nor more than one (1) year, and by a fine of not more than Five Thousand Dollars ($5,000.00). Upon conviction for a subsequent offense pursuant to the provisions of this subsection such person shall be guilty of a felony punishable by imprisonment for a period of not less than one (1) year nor more than ten (10) years, and by a fine of not less than Five Thousand Dollars ($5,000.00) nor more than Twenty-five Thousand Dollars ($25,000.00).

C. Except for persons sentenced to life or life without parole, any person convicted of violating this section and sentenced to more

than two (2) years of imprisonment shall serve a split sentence as defined in Section 22 of this act. A minimum of three (3) years of the sentence that is not a term of imprisonment shall be under intensive supervision pursuant to subsection E of Section 991a of Title 22 of the Oklahoma Statutes and any other special conditions developed for sex offenders as determined by the Department of Corrections. The jury shall be advised of the mandatory three (3) years of supervision that is not part of imprisonment.

SECTION 17. AMENDATORY 21 O.S. 2001, Section 1111.1, is amended to read as follows:

Section 1111.1 Rape by instrumentation is an act within or without the bonds of matrimony in which any inanimate object or any part of the human body, not amounting to sexual intercourse is used in the carnal knowledge of another person without his or her consent and penetration of the anus or vagina occurs to that person. Provided, further, that at least one of the circumstances specified in Section 1111 of this title has been met. Except for persons sentenced to life or life without parole, any person convicted of violating this section and sentenced to more than two (2) years of imprisonment shall serve a split sentence as defined in Section 22 of this act. A minimum of three (3) years of the sentence that is not a term of imprisonment shall be under intensive supervision pursuant to subsection E of Section 991a of Title 22 of the Oklahoma Statutes and any other special conditions developed for sex

offenders as determined by the Department of Corrections. The jury shall be advised of the mandatory three (3) years of supervision that is not part of imprisonment.

SECTION 18. AMENDATORY 21 O.S. 2001, Section 1115, as amended by Section 10, Chapter 460, O.S.L. 2002 (21 O.S. Supp. 2006, Section 1115), is amended to read as follows:

Section 1115. Rape in the first degree is a felony punishable by death or imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections, for a term of not less than five (5) years, life or life without parole. Except for persons sentenced to life or life without parole, any person convicted of violating this section and sentenced to more than two (2) years of imprisonment shall serve a split sentence as defined in Section 22 of this act. A minimum of three (3) years of the sentence that is not a term of imprisonment shall be under intensive supervision pursuant to subsection E of Section 991a of Title 22 of the Oklahoma Statutes and any other special conditions developed for sex offenders as determined by the Department of Corrections. The jury shall be advised of the mandatory three (3) years of supervision that is not part of imprisonment. Any person convicted of a second or subsequent violation of subsection A of Section 1114 of this title shall not be eligible for any form of probation. Any person convicted of a third or subsequent violation of subsection A of Section 1114 of this title or of an offense under Section 888 of

this title or an offense under Section 1123 of this title or sexual abuse of a child pursuant to Section 7115 of Title 10 of the Oklahoma Statutes, or any attempt to commit any of these offenses or any combination of these offenses shall be punished by imprisonment in the State Penitentiary for life or life without parole.

SECTION 19. AMENDATORY 21 O.S. 2001, Section 1123, as last amended by Section 2, Chapter 284, O.S.L. 2006 (21 O.S. Supp. 2006, 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, maul, or feel the body or private parts of any child under sixteen (16) years of age in any lewd or lascivious manner by any acts against public decency and morality, as defined by law; or

3. Ask, invite, entice, or persuade any child under sixteen (16) years of age, 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 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 shall be punished by imprisonment in the custody of the Department of Corrections for not less than three (3) years nor more than twenty (20) years. The provisions of this 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 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 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, 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 custody of the Department of Corrections for a term of life or life without parole.

B. No person shall commit sexual battery on any other person. "Sexual battery" shall mean the intentional touching, mauling or

feeling of the body or private parts of any person sixteen (16) years of age or older, in a lewd and lascivious manner and without the consent of that person or when committed by a state, county, municipal or political subdivision employee or a contractor or an employee of a contractor of the state, a county, a municipality or political subdivision of this state upon a person who is under the legal custody, supervision or authority of a state agency, a county, a municipality or a political subdivision of this state.

C. Any person convicted of a violation of subsection B of this section shall be deemed guilty of a felony and shall be punished by imprisonment in the custody of the Department of Corrections for not more than ten (10) years.

D. 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.

E. Except for persons sentenced to life or life without parole, any person convicted of violating this section and sentenced to more than two (2) years of imprisonment shall serve a split sentence as defined in Section 22 of this act. A minimum of three (3) years of the sentence that is not a term of imprisonment shall be under intensive supervision pursuant to subsection E of Section 991a of Title 22 of the Oklahoma Statutes and any other special conditions developed for sex offenders as determined by the Department of

Corrections. The jury shall be advised of the mandatory three (3) years of supervision that is not part of imprisonment.

SECTION 20. AMENDATORY Section 1, Chapter 209, O.S.L. 2003, as amended by Section 3, Chapter 284, O.S.L. 2006 (21 O.S. Supp. 2006, Section 1125), is amended to read as follows:

Section 1125. A. A zone of safety is hereby created around elementary, junior high, and high schools, licensed child care ~~facilities~~ centers as defined by the Department of Human Services, playgrounds, and parks. A person is prohibited from ~~being~~ loitering within three hundred (300) feet of any elementary, junior high, or high school, licensed child care facility, playground, or park if the person has been convicted of a crime that requires the person to register pursuant to the Sex Offenders Registration Act or the person has been convicted of an offense 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 Title 57 of the Oklahoma Statutes and the victim was a child under the age of thirteen (13) years.

B. A person convicted of a violation of subsection A of this section shall be guilty of a felony punishable by a fine not exceeding Two Thousand Five Hundred Dollars ($2,500.00), or by imprisonment in the county jail for a term of not more than one (1) year, or by both such fine and imprisonment. Any person convicted of a second or subsequent violation of subsection A of this section

shall be punished by a fine not exceeding Two Thousand Five Hundred Dollars ($2,500.00), or by imprisonment in the custody of the Department of Corrections for a term of not less than three (3) years, or by both such fine and imprisonment. 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, or

c. the person is the custodial parent or legal guardian of a child that is participating in a school-sanctioned or child-care-facility-sanctioned activity and is accompanied by a person who is twenty-one (21) years of age or older that has no previous felony conviction for a crime that would require the person

to register pursuant to the Sex Offenders Registration Act.

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 this title shall not apply.

SECTION 21. AMENDATORY 22 O.S. 2001, Section 991a, as last amended by Section 16 of Enrolled House Bill No. 2195 of the 1st Session of the 51st 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 confinement as provided by law together with a term of post-imprisonment 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 et seq., 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 Offender 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 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 shall include polygraph examinations specifically designed for use with sex offenders for purposes of supervision and treatment compliance, and shall be administered not less than each six (6) months during the period of supervision. The examination 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 will include 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, a sex offender who is habitual or aggravated as defined by Section 584 of Title 57 of the Oklahoma Statutes and who is required to register as a sex offender pursuant to the Oklahoma Sex Offenders Registration Act shall be supervised by the Department of Corrections for the duration of the registration period and shall be assigned to a global position monitoring device by the Department of Corrections for the duration of the registration period. 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 defend ant 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 <u>or if parole is granted</u> 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 such person from the registration requirements of the Sex Offenders Registration Act.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 991c-2 of Title 22, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Statutes, "split sentence" means a procedure by which the defendant is found guilty of a crime, whether upon a verdict or plea of guilty or upon a plea of nolo contendere, and is sentenced to a term of imprisonment for which the court orders only a portion of the imprisonment term to be actually served with the balance suspended and subject to conditional requirements and supervision.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 582.1 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 27 of this act, and assign to the person a numeric risk level of one, two, or three.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 582.2 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 991a 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 27 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 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 582.3 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 paragraph, 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 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 582.4 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 25 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 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 582.5 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 (5) 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;

3. One member having experience working with victims of sex offenses; and

4. One member who is a social worker with a graduate degree in social work.

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 28. AMENDATORY 57 O.S. 2001, Section 583, as last amended by Section 41 of Enrolled House Bill No. 2195 of the 1st Session of the 51st Oklahoma Legislature, 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~~ register, in person, 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~~ not less than three (3) business days ~~of~~ prior to the 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 seven (7) consecutive days or longer, calculated beginning with the first day. 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 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~~ register, in person, 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) consecutive days or longer, calculated beginning with the first day,

has any type of full-time or part-time employment, with or without compensation for more than five (5) cumulative days in any sixty-day period, 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 five (5) consecutive days or longer, calculated beginning with the first day, has any type of full-time or part-time employment, with or without compensation for more than five (5) cumulative days in any sixty-day period, 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 with a numeric risk level of three, the person shall be required to register ~~for a period of ten (10) years~~ as follows:

1. For a period of fifteen (15) years, if the numeric risk level of the person is one; and

2. For a period of twenty-five (25) years, if the numeric risk level of the person is two.

The registration period shall begin from the date of the completion of the sentence ~~and the~~. 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 with a numeric risk level of three, the person shall be required to register ~~for a period of ten (10) years~~ as follows:

1. For a period of fifteen (15) years, if the numeric risk level of the person is one; and

2. For a period of twenty-five (25) years, if the numeric risk level of the person is two.

The registration period shall begin 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. Any person assigned a numeric risk level of one who has been registered for a period of ten (10) years and who has not been arrested or convicted for any felony or misdemeanor offense since being released from confinement, may petition the district court in the jurisdiction where the person resides for the purpose of removing the numeric risk level designation and allowing the person to no longer be subject to the registration requirements of the Sex Offenders Registration Act.

F. When registering an offender as provided in this section the Department of Corrections or the local law enforcement agency 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) cumulative days in any sixty-day period 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.~~ G. 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.~~ H. 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) consecutive days or longer, calculated beginning with the first day 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) consecutive days or longer, calculated beginning with the first day. The registration is required with local law enforcement within two (2) days after entering the jurisdiction of the law enforcement authority.

SECTION 29. AMENDATORY 57 O.S. 2001, Section 584, as last amended by Section 9, Chapter 284, O.S.L. 2006 (57 O.S. Supp. 2006, 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 as follows:

a. On an annual basis, if the numeric risk level of the person is one, or

b. on a semiannual basis ~~by mailing~~, if the numeric risk level of the person is two.

The Department of Corrections shall 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 ~~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 ~~agency~~ 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 and has been assigned a numeric risk level of three, the address verification shall be conducted every ninety (90) days. The

Department of Corrections shall notify the ~~district attorney's~~ office of the district attorney 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 of the district attorney 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;

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. A description of all occupants residing with the person registering, including, but not limited to, name, date of birth, gender, relation to the person registering, and how long the occupant has resided there; and

8. 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;

3. A photocopy of the driver license of the person; and

4. 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, the Commissioner of Health, 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.

F. 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."

G. The State Commissioner of Health is authorized to distribute information from the sex offender registry to any nursing home or long-term care facility. Nothing in this subsection shall be deemed to impose any liability upon or give rise to a cause of action against any person, agency, organization, or company for failing to release information in accordance with the Sex Offenders Registration Act.

H. 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."

I. 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.

J. 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.

K. 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.

L. 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.

SECTION 30. AMENDATORY Section 1, Chapter 223, O.S.L. 2003, as amended by Section 11, Chapter 284, O.S.L. 2006 (57 O.S. Supp. 2006, Section 590), is amended to read as follows:

Section 590. It is unlawful for any person registered pursuant to the Sex Offenders Registration Act to reside, either temporarily

or permanently, within a two-thousand-foot radius of any public or private school site, educational institution, a playground~~,~~ or park~~,~~ that is zoned by city, county, state, federal or tribal government, or licensed child care ~~facility~~ center as defined by the Department of Human Services. Establishment of a day care center or park in the vicinity of the residence of a registered sex offender will not require the relocation of the sex offender or the sale of the property. On the effective date of this act, 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, educational institution, playground, park, or licensed child care facility; provided, any nonprofit organization established and housing sex offenders prior to the effective date of this provision shall be allowed to continue its operation.

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 felony punishable by a fine not to exceed Three Thousand Dollars ($3,000.00), or by imprisonment in the custody of the Department of Corrections for a term of not less than one (1) year nor more than

three (3) years, or by both such fine and imprisonment. Any person convicted of a second or subsequent violation of this section shall be punished by a fine not to exceed Three Thousand Dollars ($3,000.00), or by imprisonment in the custody of the Department of Corrections for a term of not less than three (3) years, or by both such fine and imprisonment.

SECTION 31. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 651 of Title 57, unless there is created a duplication in numbering, reads as follows:

The Legislature finds that a small but extremely dangerous group of sexually violent predators exists who do not have a mental disease or defect that renders them appropriate for involuntary treatment of mentally ill persons defined in Title 43A of the Oklahoma Statutes, which is intended to provide short-term treatment to individuals with serious mental disorders and then return them to the community. In contrast to persons appropriate for civil commitment under Title 43A of the Oklahoma Statutes, sexually violent predators generally have antisocial personality features which are unamenable to existing mental illness treatment modalities, and those features render them likely to engage in sexually violent behavior.

The Legislature further finds that the likelihood of a sexually violent predator engaging in repeat acts of predatory sexual violence is high. The existing involuntary commitment procedure for

mentally ill persons pursuant to Title 43A of the Oklahoma Statutes is inadequate to address the risk these sexually violent predators pose to society.

The Legislature further finds that the prognosis for rehabilitating sexually violent predators in a prison setting is poor, the treatment needs of this population are very long-term and the treatment modalities for this population are very different than the traditional treatment modalities for people appropriate for commitment of mentally ill persons pursuant to Title 43A of the Oklahoma Statutes; therefore, a separate civil commitment procedure for the long-term care and treatment of the sexually violent predator is found to be necessary by the Legislature.

SECTION 32. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 652 of Title 57, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Agency with jurisdiction" means that agency with the authority to direct the release of a person serving a sentence or term of confinement and includes the Department of Corrections;

2. “Director” means the Director of the Department of Corrections;

3. "Likely to engage in repeat act of sexual violence" means the propensity of the person to commit acts of sexual violence is of

such a degree as to pose a menace to the health and safety of others;

4. "Mental abnormality" means a congenital or acquired condition affecting the emotional or volitional capacity which predisposes the person to commit sexually violent offenses in a degree constituting such person a menace to the health and safety of others;

5. “Person” means an individual who is a potential or actual subject of proceedings under this act;

6. "Sexually motivated" means that one of the purposes for which the person committed the crime was for the purpose of sexual gratification;

7. "Sexually violent offense" means:

a. rape, pursuant to Section 1114 of Title 21 of the Oklahoma Statutes,

b. rape by instrumentation, pursuant to Section 1111.1 of Title 21 of the Oklahoma Statutes,

c. lewd, indecent proposals or acts against a child under sixteen (16), pursuant to Section 1123 of Title 21 of the Oklahoma Statutes,

d. incest, pursuant to Section 885 of Title 21 of the Oklahoma Statutes,

e. forcible sodomy, pursuant to Section 888 of Title 21 of the Oklahoma Statutes,

f. any conviction for a felony offense in effect at any time prior to the effective date of this act that is comparable to a sexually violent offense as defined in subparagraphs a through e of this paragraph or any federal or other state conviction for a felony offense that under the laws of this state would be a sexually violent offense as defined in this paragraph,

g. an attempt, conspiracy or criminal solicitation to commit a sexually violent offense as defined in this paragraph, or

h. any act which, either at the time of sentencing for the offense or subsequently during civil commitment proceedings pursuant to this act, has been determined beyond a reasonable doubt to have been sexually motivated;

8. "Sexually violent predator" means any person who has been convicted of or charged with a sexually violent offense and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in repeat acts of sexual violence;

9. “Transitional release” means any halfway house, work release, or other placement designed to assist in the adjustment and reintegration of the person into the community once released from commitment; and

10. "Treatment staff" includes the staff of the Department of Corrections and those persons that contract with the Department of Corrections that provide treatment, supervision, or other services for sexually violent predators.

SECTION 33. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 653 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. When it appears that a person may meet the criteria of a sexually violent predator, as defined in Section 32 of this act, the agency with jurisdiction shall give written notice of such to the district attorney of the county where that person was charged, sixty (60) days prior to:

1. The anticipated release from total confinement of a person who has been convicted of a sexually violent offense;

2. Release of a person who has been charged with a sexually violent offense and who has been determined to be incompetent to stand trial; or

3. Release of a person who has been found not guilty by reason of insanity of a sexually violent offense.

B. The agency with jurisdiction shall inform the district attorney of the following:

1. The name of the person, identifying factors, anticipated future residence and offense history; and

2. Documentation of institutional adjustment and any treatment received.

C. The agency with jurisdiction, its employees, officials and individuals contracting, appointed or volunteering to perform services hereunder shall be immune from liability for any good-faith conduct under this section.

SECTION 34. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 654 of Title 57, unless there is created a duplication in numbering, reads as follows:

When it appears that a person presently confined for a sexually violent offense meets the criteria of a sexually violent predator and is about to be released, the district attorney of the county where the person was convicted or charged or the Attorney General, if requested by the district attorney, may file a petition, within forty-five (45) days of the date the prosecuting attorney received the written notice by the agency of jurisdiction as provided in Section 33 of this act, alleging that the person is a sexually violent predator and stating sufficient facts to support such allegation.

SECTION 35. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 655 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. Upon the filing of a petition under Section 34 of this act, a judge shall determine whether probable cause exists to believe

that the person named in the petition is a sexually violent predator. If such determination is made, the judge shall direct that person be taken into custody.

B. Within seventy-two (72) hours after a person is taken into custody, the person shall be provided with notice of, and an opportunity to appear in person at, a hearing to contest probable cause as to whether the person is a sexually violent predator. At the hearing, the court shall:

1. Verify the identity of the person; and

2. Determine whether probable cause exists to believe that the person is a sexually violent predator.

C. The state may rely upon the petition and supplement the petition with additional documentary evidence or live testimony.

D. At the probable cause hearing, the person is entitled to the following:

1. To be represented by counsel and, if indigent, the court shall appoint counsel to assist the person;

2. To be allowed to present evidence on his or her behalf;

3. To be provided the opportunity to cross-examine witnesses who present testimony against such person; and

4. To be given access to and a copy of all petitions and reports in the court file.

E. If, at the conclusion of the hearing, a probable cause determination is made, the court shall direct that the person be

transferred to an appropriate facility for an evaluation as to whether the person is a sexually violent predator. The evaluation shall be conducted by a person deemed to be professionally qualified to conduct such an examination.

SECTION 36. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 656 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. Within forty-five (45) days after the completion of the probable cause hearing pursuant to Section 35 of this act, the court shall conduct a trial to determine whether the person is a sexually violent predator. At all stages of the proceedings under this act, any person subject to this act shall be entitled to the assistance of counsel, and if the person is indigent, the court shall appoint counsel to assist the person. Whenever any person is subjected to an examination under this act, the person may retain experts or professional persons to perform an examination on behalf of that person. When the person wishes to be examined by a qualified expert or professional person chosen by that person, such examiner shall be permitted to have reasonable access to the person for the purpose of such examination, as well as to all relevant medical and psychological records and reports. In the case of a person who is indigent, the court, upon the request of the person, shall assist the person in obtaining an expert or professional person to perform an examination or participate in the trial on behalf of the person.

B. The person, the district attorney or the Attorney General shall have the right to demand that the trial be before a jury. Such demand for the trial to be before a jury shall be filed, in writing, at least four (4) days prior to trial. The jury shall be composed of six (6) persons having the qualifications of jurors in courts of record. If no demand is made, the trial shall be before the court.

SECTION 37. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 657 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. The court or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. If the determination that the person is a sexually violent predator is made by a jury, the determination shall be by unanimous verdict of the jury. The verdict or court decision may be appealed. If the court or jury determines that the person is a sexually violent predator, the person shall be committed to the custody of the Department of Corrections for control, care and treatment until such time as the person is no longer a threat to the public. Such control, care and treatment shall be provided at a facility operated by the Department of Corrections.

B. At all times, persons committed for control, care and treatment by the Department of Corrections pursuant to this act shall be kept in a secure facility and such persons shall be

segregated at all times from any other person under the custody of the Department of Corrections.

C. If the court or jury is not satisfied beyond a reasonable doubt that the person is a sexually violent predator, the court shall direct the release of the person.

D. Upon a mistrial, the court shall direct that the person be held at an appropriate secure facility including, but not limited to, a county jail, until another trial is conducted. Any subsequent trial following a mistrial shall be held within ninety (90) days of the previous trial.

E. If the person charged with a sexually violent offense has been found incompetent to stand trial, is about to be released from the custody of the state and commitment of the person is sought pursuant to this act, the court shall first hear evidence and determine whether the person did commit the act or acts charged. The rules of evidence applicable in criminal cases shall apply, and all constitutional rights available to defendants at criminal trials, other than the right not to be tried while incompetent, shall apply. After hearing evidence on this issue, the court shall make specific findings on the following:

1. Whether the person did commit the act or acts charged;

2. The extent to which the incompetence or developmental disability of the person affected the outcome of the hearing,

including its effect on the ability of the person to consult with and assist counsel and to testify on his or her own behalf;

3. The extent to which the evidence could be reconstructed without the assistance of the person; and

4. The strength of the evidence presented by the state.

F. If, after the conclusion of the hearing on this issue, the court finds, beyond a reasonable doubt, that the person did commit the act or acts charged, the court shall enter a final order, appealable by the person, on that issue and may proceed to consider whether the person should be committed pursuant to the provisions of this section.

SECTION 38. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 658 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. Each person committed under this act shall have a current examination of the mental condition of the person made once every year. The person may retain or, if the person is indigent and so requests, the court may appoint a qualified professional person to examine the person, and such expert or professional person shall have access to all records concerning the person. The yearly report shall be provided to the court that committed the person under this act. The court shall conduct an annual review of the status of the committed person. Nothing contained in this act shall prohibit the person from otherwise petitioning the court for discharge at this

hearing. The Director of the Department of Corrections shall provide the committed person with an annual written notice of the right of the person to petition the court for release over the objection of the Director. The notice shall contain a waiver of rights. The Director shall forward the notice and waiver form to the court with the annual report. The committed person shall have a right to have an attorney represent the person at the hearing.

B. If the court, at the hearing, determines that probable cause exists to believe that the mental abnormality or personality disorder of the person has so changed that the person is safe to be in transitional release, then the court shall set a hearing on the issue. At the hearing, the committed person shall be entitled to be present and entitled to the benefit of all constitutional protections that were afforded the person at the initial commitment proceeding. The district attorney or the Attorney General, if requested by the district attorney, shall represent the state and shall have a right to a jury trial and to have the committed person evaluated by experts chosen by the state. The committed person shall also have the right to have experts evaluate the person on his or her behalf, and the court shall appoint an expert if the person is indigent and requests an appointment. The burden of proof at the hearing shall be upon the state to prove beyond a reasonable doubt that the mental abnormality or personality disorder of the committed person remains such that the person is not safe to be placed in

transitional release, and if transitionally released, is likely to engage in acts of sexual violence.

C. If, upon conclusion of the hearing, the court or jury is convinced beyond a reasonable doubt that the person is not appropriate for transitional release, the court shall order that the person remain in secure commitment. If the court or jury determines otherwise, the court shall order that the person be placed in transitional release.

D. If the court determines that the person should be placed in transitional release, the Director of the Department of Corrections shall transfer the person to the transitional release program. During any period the person is in transitional release, that person shall comply with any rules or regulations the Director may establish for the program and every directive of the treatment staff of the transitional release program.

E. At any time during which the person is in the transitional release program and the treatment staff determines that the person has violated any rule, regulation or directive associated with the transitional release program, the treatment staff may remove the person from the transitional release program and return the person to the secure commitment facility, or may request the district court to issue an emergency ex parte order directing any law enforcement officer to take the person into custody and return the person to the secure commitment facility. Any such request may be made verbally

or by telephone, but shall be followed in written or facsimile form delivered to the court by not later than 5:00 p.m. of the first day the district court is open for the transaction of business after the verbal or telephonic request was made.

F. Upon the person being returned to the secure commitment facility from the transitional release program, notice shall be given by the Director of the Department of Corrections to the court. The court shall set the matter for a hearing within two (2) working days of receipt of notice of the person having been returned to the secure commitment facility and cause notice thereof to be given to the district attorney or Attorney General, the person and the Director. The state shall have the burden of proof to show probable cause that the person violated conditions of transitional release. The hearing shall be to the court. At the conclusion of the hearing, the court shall issue an order returning the person to the secure commitment facility or to the transitional release program, and may order such other further conditions with which the person must comply if the person is returned to the transitional release program.

SECTION 39. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 659 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. If the Director of the Department of Corrections determines that the mental abnormality or personality disorder of a person has

so changed that the person is not likely to engage in repeat acts of sexual violence if placed in transitional release, the Director shall authorize the person to petition the court for transitional release. The petition shall be served upon the court and the district attorney. The court, upon receipt of the petition for transitional release, shall order a hearing within thirty (30) days. The district attorney or the Attorney General, if requested by the district attorney, shall represent the state and shall have the right to have the petitioner examined by an expert or professional person chosen by the district attorney or Attorney General. The hearing shall be before a jury if demanded by the petitioner, district attorney or Attorney General. The burden of proof shall be upon the district attorney or Attorney General to show beyond a reasonable doubt that the mental abnormality or personality disorder of the petitioner remains such that the petitioner is not safe to be at large and, if placed in transitional release, is likely to engage in repeat acts of sexual violence.

B. If, upon conclusion of the hearing, the court is convinced beyond a reasonable doubt that the person is not appropriate for transitional release, the court shall order that the person remain in secure commitment. Otherwise, the court shall order that the person be placed in transitional release.

SECTION 40. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 660 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. During any period the person is in transitional release, the person, at least once every year and at any other time deemed appropriate by the treatment staff, shall be examined by the treatment staff to determine if the mental abnormality or personality disorder of the person has so changed as to warrant such person being considered for conditional release. The treatment staff shall forward a report of the examination to the court. The court shall review the report of the examination. If the court determines that probable cause exists to believe that the mental abnormality or personality disorder of the person has so changed that the person is safe to be placed in conditional release, the court shall then set a hearing on the issue. The burden of proof at the hearing shall be upon the state to prove beyond a reasonable doubt that the mental abnormality or personality disorder of the person remains such that the person is not safe to be at large and that if placed on conditional release is likely to engage in repeat acts of sexual violence. At the hearing, the person shall be entitled to be present and entitled to the benefit of all constitutional protections that were afforded the person at the initial commitment proceeding. Subsequent to either a court review or a hearing, the court shall issue an appropriate order with

findings of fact. The order of the court shall be provided to the district attorney or the Attorney General, the person, and the Director of the Department of Corrections.

B. If, after the hearing, the court is convinced beyond a reasonable doubt that the person is not appropriate for conditional release, the court shall order that the person remain either in secure commitment or in transitional release. Otherwise, the court shall order that the person be placed on conditional release.

SECTION 41. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 661 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. If the court determines that the person should be placed on conditional release, the court, based upon the recommendation of the treatment staff, shall establish a treatment plan which the person shall be ordered to follow. The treatment plan may include, but shall not be limited to, the following provisions:

1. Determining where the person shall reside and with whom;

2. Taking prescribed medications;

3. Attending individual and group counseling;

4. Maintaining employment;

5. Having no contact with children;

6. Not frequenting facilities, locations or events in which children are likely to be present; and

7. Not engaging in activities in which contact with children is likely.

Upon a showing by the person that he or she accepts the treatment plan and is prepared to follow the treatment plan, the court shall release the person from the transitional release program.

B. After a minimum of five (5) years have passed in which the person has been free of violations of conditions of the treatment plan, the treatment staff, or other professionals directed by the court may examine the person to determine if the mental abnormality or personality disorder of the person has changed so as to warrant the person being considered for final discharge. The person preparing the report shall forward the report to the court. The court shall review the report. If the court determines that probable cause exists to believe that the mental abnormality or personality disorder of the person has so changed that the person is safe to be entitled to final discharge, the court shall set a formal hearing on the issue. The burden of proof at the hearing shall be upon the state to prove beyond a reasonable doubt that the mental abnormality or personality disorder of the person remains such that the person is not appropriate for final discharge. At the hearing, the person shall be entitled to be present and entitled to the benefit of all constitutional protections that were afforded the person at the initial commitment proceeding. Subsequent to either a court review or a hearing, the court shall issue an appropriate

order with findings of fact. The order of the court shall be provided to the district attorney or the Attorney General, the person and the Director of the Department of Corrections.

C. If, after a hearing, the court is convinced beyond a reasonable doubt that the person is not appropriate for final discharge, the court shall continue custody of the person with the Director for placement in a secure facility, transitional release program or conditional release program. Otherwise, the court shall order the person finally discharged. In the event the court does not order final discharge of the person, the person shall retain the right to annual review.

D. At any time during which the person is on conditional release and the professional person designated by the court to monitor the compliance of the person with the treatment plan determines that the person has violated any material condition of that plan, that professional person may request the district court to issue an emergency ex parte order directing any law enforcement officer to take the person into custody and return the person to a secure commitment facility. Any such request may be made verbally or by telephone, but shall be followed in written or facsimile form delivered to the court not later than 5:00 p.m. of the first day the district court is open for business after the verbal or telephonic request was made.

E. Upon the person being returned to a secure commitment facility from conditional release, notice shall be given by the Director to the court. The court shall set the matter for a hearing within two (2) business days of receipt of notice of the person having been returned to the secure commitment facility. The court shall provide notice to the district attorney or Attorney General, the person and the Director. The burden of proof shall be upon the state to show probable cause that the person violated the conditions of conditional release. At the conclusion of the hearing, the court shall issue an order returning the person to the secure commitment facility, the transitional release program, or to conditional release. The court may order such other further conditions with which the person shall comply if the person is returned to either the transitional release program or to conditional release.

F. The final discharge shall not prevent the person from being prosecuted for any criminal acts which the person is alleged to have committed or from being subject in the future to a subsequent commitment under the provisions of this act.

SECTION 42. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 662 of Title 57, unless there is created a duplication in numbering, reads as follows:

Any person for whom a petition, pursuant to this act, has been filed who is in the secure confinement of the state shall not be eligible for bail, bond, house arrest or any other measures

releasing the person from the physical, protective custody of the state.

SECTION 43. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 663 of Title 57, unless there is created a duplication in numbering, reads as follows:

The involuntary detention or commitment of persons under this act shall conform to constitutional requirements for care and treatment.

SECTION 44. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 664 of Title 57, unless there is created a duplication in numbering, reads as follows:

Nothing in this act shall prohibit a person from filing a petition for transitional release, conditional release or final discharge pursuant to this act. However, if a person has previously filed a petition for transitional release, conditional release or final discharge without the approval of the Director of the Department of Corrections and the court determined, either upon review of the petition or following a hearing, that the petition was frivolous or that the condition of the petitioner had not so changed that the person was safe to be at large, then the court shall deny the subsequent petition unless the petition contains facts upon which a court could find the condition of the petitioner has so changed that a hearing was warranted. Upon receipt of a first or subsequent petition from the committed person without the approval

of the Director, the court shall endeavor whenever possible to review the petition and determine if the petition is based upon frivolous grounds and, if so, shall deny the petition without a hearing.

SECTION 45. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 665 of Title 57, unless there is created a duplication in numbering, reads as follows:

The Director of the Department of Corrections shall be responsible for providing all treatment services and all costs relating to the evaluation and treatment of persons committed to the custody of the Director under any provision of this act. Reimbursement may be obtained by the Director for the cost of care and treatment of persons committed to the custody of the Director.

SECTION 46. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 666 of Title 57, unless there is created a duplication in numbering, reads as follows:

In addition to any other information required to be released under this act and prior to the release of a person committed under this act, the Director of the Department of Corrections shall give written notice of such release to any victim of the crime for which the person was convicted who is alive and whose address is known to the Director or, if the victim is deceased, to the family of the victim, if the address of the family is known to the Director. Failure to notify shall not be a reason for postponement of release.

Nothing in this section shall create a cause of action against the state or an employee of the state acting within the scope of employment as a result of the failure to notify as required in this section.

SECTION 47. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 667 of Title 57, unless there is created a duplication in numbering, reads as follows:

In order to protect the public, relevant information and records which are otherwise confidential or privileged shall be released to the agency with jurisdiction, district attorney or Attorney General for the purpose of meeting the notice requirement, as provided in Section 33 of this act, and determining whether a person is or continues to be a sexually violent predator.

SECTION 48. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 668 of Title 57, unless there is created a duplication in numbering, reads as follows:

Any psychological reports, drug and alcohol reports, treatment records, reports of the diagnostic center, medical records or victim impact statements which have been submitted to the court or admitted into evidence under this act shall be part of the record but shall be sealed and opened only upon order of the court.

SECTION 49. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 669 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. The district attorney shall file a special allegation of sexual motivation within ten (10) days after arraignment in every criminal case other than sex offenses as listed in paragraph 7 of Section 32 of this act and amendments thereto, when sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify a finding of sexual motivation by a reasonable and objective fact finder.

B. In a criminal case wherein there has been a special allegation, the state shall prove beyond a reasonable doubt that the accused committed the crime with a sexual motivation. The court shall make a finding of fact of whether or not a sexual motivation was present at the time of the commission of the crime, or if a jury trial is had, the jury, if it finds the defendant guilty, also shall find a special verdict as to whether or not the defendant committed the crime with a sexual motivation. This finding shall not be applied to sex offenses as defined in paragraph 7 of Section 32 of this act.

C. The district attorney shall not withdraw the special allegation of sexual motivation without approval of the court through an order of dismissal of the special allegation. The court shall not dismiss this special allegation unless it finds that such an order is necessary to correct an error in the initial charging

decision or unless there are evidentiary problems which make proving the special allegation doubtful.

SECTION 50. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 670 of Title 57, unless there is created a duplication in numbering, reads as follows:

If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or applications, and to this end the provisions of this act are declared to be severable.

SECTION 51. This act shall become effective November 1, 2007.

Passed the House of Representatives the 12th day of March, 2007.

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Presiding Officer of the House of Representatives

Passed the Senate the ____ day of _____, 2007.

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Presiding Officer of the Senate