

THE HOUSE OF REPRESENTATIVES
Monday, February 12, 2007

House Bill No. 1612

HOUSE BILL NO. 1612 - By: ROAN of the House and BARRINGTON of the Senate.

An Act relating to criminal procedure; amending 22 O.S. 2001, Section 991a, as last amended by Section 1, Chapter 294, O.S.L. 2006 (22 O.S. Supp. 2006, Section 991a), which relates to sentencing powers of the court; authorizing collection of DNA samples by peace officers; clarifying persons responsible for collection of DNA samples and fees; and providing an effective date.

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

1 SECTION 1. AMENDATORY 22 O.S. 2001, Section 991a, as last amended by
2 Section 1, Chapter 294, O.S.L. 2006 (22 O.S. Supp. 2006, Section 991a), is amended to
3 read as follows:

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

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

10 a. to provide restitution to the victim as provided by Section 991f et seq.
11 of this title or according to a schedule of payments established by the
12 sentencing court, together with interest upon any pecuniary sum at the

- 1 rate of twelve percent (12%) per annum, if the defendant agrees to pay
2 such restitution or, in the opinion of the court, if the defendant is able
3 to pay such restitution without imposing manifest hardship on the
4 defendant or the immediate family and if the extent of the damage to
5 the victim is determinable with reasonable certainty,
- 6 b. to reimburse any state agency for amounts paid by the state agency for
7 hospital and medical expenses incurred by the victim or victims, as a
8 result of the criminal act for which such person was convicted, which
9 reimbursement shall be made directly to the state agency, with
10 interest accruing thereon at the rate of twelve percent (12%) per
11 annum,
- 12 c. to engage in a term of community service without compensation,
13 according to a schedule consistent with the employment and family
14 responsibilities of the person convicted,
- 15 d. to pay a reasonable sum into any trust fund, established pursuant to
16 the provisions of Sections 176 through 180.4 of Title 60 of the
17 Oklahoma Statutes, and which provides restitution payments by
18 convicted defendants to victims of crimes committed within this state
19 wherein such victim has incurred a financial loss,
- 20 e. to confinement in the county jail for a period not to exceed six (6)
21 months,

- 1 f. to confinement as provided by law together with a term of post-
2 imprisonment community supervision for not less than three (3) years
3 of the total term allowed by law for imprisonment, with or without
4 restitution; provided, however, the authority of this provision is limited
5 to Section 7115 of Title 10 of the Oklahoma Statutes when the offense
6 involved sexual abuse or sexual exploitation; Sections 681, 741 and
7 843.1 of Title 21 of the Oklahoma Statutes when the offense involved
8 sexual abuse or sexual exploitation; and Sections 865 et seq., 885, 886,
9 888, 891, 1021, 1021.2, 1021.3, 1040.13a, 1087 and 1088 of Title 21 of
10 the Oklahoma Statutes,
- 11 g. to repay the reward or part of the reward paid by a certified local
12 crimestoppers program and the Oklahoma Reward System. In
13 determining whether the defendant shall repay the reward or part of
14 the reward, the court shall consider the ability of the defendant to
15 make the payment, the financial hardship on the defendant to make
16 the required payment, and the importance of the information to the
17 prosecution of the defendant as provided by the arresting officer or the
18 district attorney with due regard for the confidentiality of the records
19 of the certified local crimestoppers program and the Oklahoma Reward
20 System. The court shall assess this repayment against the defendant
21 as a cost of prosecution. "Certified local crimestoppers program"
22 means a crimestoppers program certified by the Office of the Attorney

1 General pursuant to Section 991g of this title. The "Oklahoma Reward
2 System" means the reward program established by Section 150.18 of
3 Title 74 of the Oklahoma Statutes,

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

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

1 Statutes or to the general fund wherein the other law enforcement
2 agency is located,

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

6 k. to reimburse the court fund for amounts paid to court-appointed
7 attorneys for representing the defendant in the case in which the
8 person is being sentenced,

9 l. to participate in an assessment and evaluation by an assessment
10 agency or assessment personnel certified by the Department of Mental
11 Health and Substance Abuse Services pursuant to Section 3-460 of
12 Title 43A of the Oklahoma Statutes and, as determined by the
13 assessment, participate in an alcohol and drug substance abuse course
14 or treatment program or both, pursuant to Sections 3-452 and 3-453 of
15 Title 43A of the Oklahoma Statutes, or as ordered by the court,

16 m. to be placed in a victims impact panel program or victim/offender
17 reconciliation program and payment of a fee to the program of not less
18 than Fifteen Dollars (\$15.00) nor more than Fifty Dollars (\$50.00) as
19 set by the governing authority of the program to offset the cost of
20 participation by the defendant. Provided, each victim/offender
21 reconciliation program shall be required to obtain a written consent
22 form voluntarily signed by the victim and defendant that specifies the

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

1 defendant has a blood or breath alcohol concentration of two-
2 hundredths (0.02) or greater,
3 o. to be confined by electronic monitoring administered and supervised by
4 the Department of Corrections or a community sentence provider, and
5 payment of a monitoring fee to the supervising authority, not to exceed
6 Three Hundred Dollars (\$300.00) per month. Any fees collected
7 pursuant to this paragraph shall be deposited with the appropriate
8 supervising authority. Any willful violation of an order of the court for
9 the payment of the monitoring fee shall be a violation of the sentence
10 and may be punished as deemed proper by the sentencing court. As
11 used in this paragraph, "electronic monitoring" means confinement of
12 the defendant within a specified location or locations with supervision
13 by means of an electronic device approved by the Department of
14 Corrections which is designed to detect if the defendant is in the court-
15 ordered location at the required times and which records violations for
16 investigation by a qualified supervisory agency or person,
17 p. to perform one or more courses of treatment, education or
18 rehabilitation for any conditions, behaviors, deficiencies or disorders
19 which may contribute to criminal conduct, including but not limited to
20 alcohol and substance abuse, mental health, emotional health, physical
21 health, propensity for violence, antisocial behavior, personality or
22 attitudes, deviant sexual behavior, child development, parenting

- 1 assistance, job skills, vocational-technical skills, domestic relations,
2 literacy, education, or any other identifiable deficiency which may be
3 treated appropriately in the community and for which a certified
4 provider or a program recognized by the court as having significant
5 positive impact exists in the community. Any treatment, education or
6 rehabilitation provider required to be certified pursuant to law or rule
7 shall be certified by the appropriate state agency or a national
8 organization,
- 9 q. to submit to periodic testing for alcohol, intoxicating substance, or
10 controlled dangerous substances by a qualified laboratory,
- 11 r. to pay a fee, costs for treatment, education, supervision, participation
12 in a program, or any combination thereof as determined by the court,
13 based upon the defendant's ability to pay the fees or costs,
- 14 s. to be supervised by a Department of Corrections employee, a private
15 supervision provider, or other person designated by the court,
- 16 t. to obtain positive behavior modeling by a trained mentor,
- 17 u. to serve a term of confinement in a restrictive housing facility available
18 in the community,
- 19 v. to serve a term of confinement in the county jail at night or during
20 weekends pursuant to Section 991a-2 of this title or for work release,
- 21 w. to obtain employment or participate in employment-related activities,

- 1 x. to participate in mandatory day reporting to facilities or persons for
2 services, payments, duties or person-to-person contacts as specified by
3 the court,
- 4 y. to pay day fines not to exceed fifty percent (50%) of the net wages
5 earned. For purposes of this paragraph, "day fine" means the offender
6 is ordered to pay an amount calculated as a percentage of net daily
7 wages earned. The day fine shall be paid to the local community
8 sentencing system as reparation to the community. Day fines shall be
9 used to support the local system,
- 10 z. to submit to blood or saliva testing as required by subsection I of this
11 section,
- 12 aa. to repair or restore property damaged by the defendant's conduct, if
13 the court determines the defendant possesses sufficient skill to repair
14 or restore the property and the victim consents to the repairing or
15 restoring of the property,
- 16 bb. to restore damaged property in kind or payment of out-of-pocket
17 expenses to the victim, if the court is able to determine the actual out-
18 of-pocket expenses suffered by the victim,
- 19 cc. to attend a victim-offender reconciliation program if the victim agrees
20 to participate and the offender is deemed appropriate for participation,
- 21 dd. in the case of a person convicted of prostitution pursuant to Section
22 1029 of Title 21 of the Oklahoma Statutes, require such person to

1 receive counseling for the behavior which may have caused such
2 person to engage in prostitution activities. Such person may be
3 required to receive counseling in areas including but not limited to
4 alcohol and substance abuse, sexual behavior problems, or domestic
5 abuse or child abuse problems,
6 ee. in the case of a sex offender sentenced after November 1, 1989, and
7 required by law to register pursuant to the Sex Offender Registration
8 Act, the court shall require the person to comply with sex offender
9 specific rules and conditions of supervision established by the
10 Department of Corrections and require the person to participate in a
11 treatment program designed for the treatment of sex offenders during
12 the period of time while the offender is subject to supervision by the
13 Department of Corrections. The treatment program shall include
14 polygraph examinations specifically designed for use with sex offenders
15 for purposes of supervision and treatment compliance, and shall be
16 administered not less than each six (6) months during the period of
17 supervision. The examination shall be administered by a certified
18 licensed polygraph examiner. The treatment program must be
19 approved by the Department of Corrections or the Department of
20 Mental Health and Substance Abuse Services. Such treatment shall
21 be at the expense of the defendant based on the defendant's ability to
22 pay,

1 ff. in addition to other sentencing powers of the court, the court in the
2 case of a defendant being sentenced for a felony conviction for a
3 violation of Section 2-402 of Title 63 of the Oklahoma Statutes which
4 involves marijuana may require the person to participate in a drug
5 court program, if available. If a drug court program is not available,
6 the defendant may be required to participate in a community sanctions
7 program, if available,

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

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

20 However, any such order for restitution, community service, payment to a certified
21 local crimestoppers program, payment to the Oklahoma Reward System, or confinement

1 in the county jail, or a combination thereof, shall be made in conjunction with probation
2 and shall be made a condition of the suspended sentence;

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

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

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

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

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

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

- 9 a. to participate in an alcohol and drug assessment and evaluation by an
10 assessment agency or assessment personnel certified by the
11 Department of Mental Health and Substance Abuse Services pursuant
12 to Section 3-460 of Title 43A of the Oklahoma Statutes and, as
13 determined by the assessment, participate in an alcohol and drug
14 substance abuse course or treatment program or both, pursuant to
15 Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes,
- 16 b. to attend a victims impact panel program, if such a program is offered
17 in the county where the judgment is rendered, and to pay a fee, not
18 less than Fifteen Dollars (\$15.00) nor more than Fifty Dollars (\$50.00)
19 as set by the governing authority of the program and approved by the
20 court, to the program to offset the cost of participation by the
21 defendant, if in the opinion of the court the defendant has the ability to
22 pay such fee,

- 1 c. to both participate in the alcohol and drug substance abuse course or
2 treatment program, pursuant to subparagraph a of this paragraph and
3 attend a victims impact panel program, pursuant to subparagraph b of
4 this paragraph,
- 5 d. to install, at the expense of the person, an ignition interlock device
6 approved by the Board of Tests for Alcohol and Drug Influence, upon
7 every motor vehicle operated by such person and to require that a
8 notation of this restriction be affixed to the person's driver license at
9 the time of reinstatement of the license. The restriction shall remain
10 on the driver license for such period as the court shall determine. The
11 restriction may be modified or removed by order of the court and notice
12 of the order shall be given to the Department of Public Safety. Upon
13 the expiration of the period for the restriction, the Department of
14 Public Safety shall remove the restriction without further court order.
15 Failure to comply with the order to install an ignition interlock device
16 or operating any vehicle without such device during the period of
17 restriction shall be a violation of the sentence and may be punished as
18 deemed proper by the sentencing court, or
- 19 e. beginning January 1, 1993, to submit to electronically monitored home
20 detention administered and supervised by the Department of
21 Corrections, and to pay to the Department a monitoring fee, not to
22 exceed Seventy-five Dollars (\$75.00) a month, to the Department of

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BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 Corrections, if in the opinion of the court the defendant has the ability
2 to pay such fee. Any fees collected pursuant to this subparagraph shall
3 be deposited in the Department of Corrections Revolving Fund. Any
4 order by the court for the payment of the monitoring fee, if willfully
5 disobeyed, may be enforced as an indirect contempt of court;

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

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

18 10. In addition to the other sentencing powers of the court, the court, in the case of
19 a sex offender sentenced after November 1, 1989, and required by law to register
20 pursuant to the Sex Offenders Registration Act, shall require the person to participate in
21 a treatment program designed specifically for the treatment of sex offenders, if available.
22 The treatment program will include polygraph examinations specifically designed for use

1 with sex offenders for the purpose of supervision and treatment compliance, provided the
2 examination is administered by a certified licensed polygraph examiner. The treatment
3 program must be approved by the Department of Corrections or the Department of
4 Mental Health and Substance Abuse Services. Such treatment shall be at the expense of
5 the defendant based on the defendant's ability to pay;

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

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

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

1 B. Notwithstanding any other provision of law, any person who is found guilty of a
2 violation of any provision of Section 761 or 11-902 of Title 47 of the Oklahoma Statutes or
3 any person pleading guilty or nolo contendere for a violation of any provision of such
4 sections shall be ordered to participate in, prior to sentencing, an alcohol and drug
5 assessment and evaluation by an assessment agency or assessment personnel certified by
6 the Department of Mental Health and Substance Abuse Services for the purpose of
7 evaluating the receptivity to treatment and prognosis of the person. The court shall
8 order the person to reimburse the agency or assessor for the evaluation. The fee shall be
9 the amount provided in subsection C of Section 3-460 of Title 43A of the Oklahoma
10 Statutes. The evaluation shall be conducted at a certified assessment agency, the office
11 of a certified assessor or at another location as ordered by the court. The agency or
12 assessor shall, within seventy-two (72) hours from the time the person is assessed,
13 submit a written report to the court for the purpose of assisting the court in its final
14 sentencing determination. No person, agency or facility operating an alcohol and drug
15 substance abuse evaluation program certified by the Department of Mental Health and
16 Substance Abuse Services shall solicit or refer any person evaluated pursuant to this
17 subsection for any treatment program or alcohol and drug substance abuse service in
18 which such person, agency or facility has a vested interest; however, this provision shall
19 not be construed to prohibit the court from ordering participation in or any person from
20 voluntarily utilizing a treatment program or alcohol and drug substance abuse service
21 offered by such person, agency or facility. If a person is sentenced to the custody of the
22 Department of Corrections and the court has received a written evaluation report

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

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

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

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

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

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

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

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

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

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

1 H. As used in this section:

2 1. "Ignition interlock device" means a device that, without tampering or
3 intervention by another person, would prevent the defendant from operating a motor
4 vehicle if the defendant has a blood or breath alcohol concentration of two-hundredths
5 (0.02) or greater; and

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

10 I. A person convicted of a felony offense or receiving any form of probation for an
11 offense in which registration is required pursuant to the Sex Offenders Registration Act
12 shall submit to deoxyribonucleic acid DNA testing for law enforcement identification
13 purposes in accordance with Section 150.27 of Title 74 of the Oklahoma Statutes and the
14 rules promulgated by the Oklahoma State Bureau of Investigation for the OSBI
15 Combined DNA Index System (CODIS) Database. Any defendant sentenced to probation
16 shall be required to submit to testing within thirty (30) days of sentencing either to the
17 Department of Corrections or to the county sheriff or other peace officer as directed by
18 the court. Defendants who are sentenced to a term of incarceration shall submit to
19 testing in accordance with Section 530.1 of Title 57 of the Oklahoma Statutes, for those
20 defendants who enter the custody of the Department of Corrections or to the county
21 sheriff, for those defendants sentenced to incarceration in a county jail. Convicted
22 individuals who have previously submitted to DNA testing under this section and for

1 whom a valid sample is on file in the OSBI Combined DNA Index System (CODIS)
2 Database at the time of sentencing shall not be required to submit to additional testing.
3 Except as required by the Sex Offenders Registration Act, a deferred judgment does not
4 require submission to deoxyribonucleic acid testing.

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

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

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

9 SECTION 2. This act shall become effective November 1, 2007.

10 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY,
11 dated 02-08-07 - DO PASS, As Coauthored.