

THE HOUSE OF REPRESENTATIVES
April 2, 2007

Committee Substitute for
ENGROSSED
Senate Bill No. 659

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 659 - By:
NICHOLS of the Senate and DUNCAN AND MCCULLOUGH of the House.

An Act relating to criminal procedure; providing for criminal investigations by the district attorney through the issuance of investigative subpoenas; establishing requirements for examination of subpoenaed materials; providing for payment of witness; making certain conduct unlawful; providing penalty; amending 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, which relates to powers of the court; requiring DNA sampling of felony offenders upon arrest; providing exception under certain circumstances; providing for codification; and providing an effective date.

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

1 SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 21 of Title 22, unless there is created a duplication in numbering,
3 reads as follows:

4 A. When any person has engaged in, is engaged in, or is attempting or conspiring to
5 engage in any conduct constituting a violation of any of the provisions of the law, the
6 district attorney may conduct an investigation of the conduct. On approval of the district
7 judge, the district attorney in accordance with the provisions of Section 258 of Title 22 of
8 the Oklahoma Statutes is authorized before the commencement of any civil or criminal

1 proceeding to subpoena witnesses, compel their attendance, examine them under oath, or
2 require the production of any business papers or records by subpoena duces tecum,
3 except that such evidence taken shall not be receivable in any civil proceeding.

4 B. Any business papers and records subpoenaed by the district attorney shall be
5 available for examination by the person who produced the material or by any duly
6 authorized representative of the person. Transcripts of oral testimony shall be available
7 for examination by the person who produced such testimony, or his or her counsel.

8 Except as otherwise provided for in this section, no business papers, records,
9 transcripts or oral testimony, or copies thereof, subpoenaed by the district attorney shall
10 be available for examination by an individual other than another law enforcement official
11 without the consent of the person who produced the business papers, records or
12 transcripts.

13 C. All persons served with a subpoena by the district attorney pursuant to this
14 section shall be paid the same fees and mileage as paid witnesses in the courts of this
15 state.

16 D. No person shall, with intent to avoid, evade, prevent, or obstruct compliance in
17 whole or in part by any person with any duly served subpoena of the district attorney
18 pursuant to the provisions of this section, knowingly remove from any place, conceal,
19 withhold, destroy, mutilate, alter, or by any other means falsify any business papers or
20 records that are the subject of the subpoena ducus tecum. A violation of the provisions of
21 this subsection, upon conviction, is a misdemeanor, punishable by imprisonment in the

1 county jail not exceeding one (1) year, or by a fine not exceeding Five Hundred Dollars
2 (\$500.00), or by both such fine and imprisonment.

3 SECTION 2. AMENDATORY 22 O.S. 2001, Section 991a, as last amended by
4 Section 16 of Enrolled House Bill No. 2195 of the 1st Session of the 51st Oklahoma
5 Legislature, is amended to read as follows:

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

9 1. Suspend the execution of sentence in whole or in part, with or without probation.

10 The court, in addition, may order the convicted defendant at the time of sentencing or at
11 any time during the suspended sentence to do one or more of the following:

12 a. to provide restitution to the victim as provided by Section 991f et seq.
13 of this title or according to a schedule of payments established by the
14 sentencing court, together with interest upon any pecuniary sum at the
15 rate of twelve percent (12%) per annum, if the defendant agrees to pay
16 such restitution or, in the opinion of the court, if the defendant is able
17 to pay such restitution without imposing manifest hardship on the
18 defendant or the immediate family and if the extent of the damage to
19 the victim is determinable with reasonable certainty,

20 b. to reimburse any state agency for amounts paid by the state agency for
21 hospital and medical expenses incurred by the victim or victims, as a
22 result of the criminal act for which such person was convicted, which

1 reimbursement shall be made directly to the state agency, with
2 interest accruing thereon at the rate of twelve percent (12%) per
3 annum,
4 c. to engage in a term of community service without compensation,
5 according to a schedule consistent with the employment and family
6 responsibilities of the person convicted,
7 d. to pay a reasonable sum into any trust fund, established pursuant to
8 the provisions of Sections 176 through 180.4 of Title 60 of the
9 Oklahoma Statutes, and which provides restitution payments by
10 convicted defendants to victims of crimes committed within this state
11 wherein such victim has incurred a financial loss,
12 e. to confinement in the county jail for a period not to exceed six (6)
13 months,
14 f. to confinement as provided by law together with a term of post-
15 imprisonment community supervision for not less than three (3) years
16 of the total term allowed by law for imprisonment, with or without
17 restitution; provided, however, the authority of this provision is limited
18 to Section 7115 of Title 10 of the Oklahoma Statutes when the offense
19 involved sexual abuse or sexual exploitation; Sections 681, 741 and
20 843.1 of Title 21 of the Oklahoma Statutes when the offense involved
21 sexual abuse or sexual exploitation; and Sections 865 et seq., 885, 886,

1 888, 891, 1021, 1021.2, 1021.3, 1040.13a, 1087 and 1088 of Title 21 of
2 the Oklahoma Statutes,
3 g. to repay the reward or part of the reward paid by a certified local
4 crimestoppers program and the Oklahoma Reward System. In
5 determining whether the defendant shall repay the reward or part of
6 the reward, the court shall consider the ability of the defendant to
7 make the payment, the financial hardship on the defendant to make
8 the required payment, and the importance of the information to the
9 prosecution of the defendant as provided by the arresting officer or the
10 district attorney with due regard for the confidentiality of the records
11 of the certified local crimestoppers program and the Oklahoma Reward
12 System. The court shall assess this repayment against the defendant
13 as a cost of prosecution. "Certified local crimestoppers program"
14 means a crimestoppers program certified by the Office of the Attorney
15 General pursuant to Section 991g of this title. The "Oklahoma Reward
16 System" means the reward program established by Section 150.18 of
17 Title 74 of the Oklahoma Statutes,
18 h. to reimburse the Oklahoma State Bureau of Investigation for costs
19 incurred by that agency during its investigation of the crime for which
20 the defendant pleaded guilty, nolo contendere or was convicted,
21 including compensation for laboratory, technical, or investigation
22 services performed by the Bureau if, in the opinion of the court, the

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

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

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

19 k. to reimburse the court fund for amounts paid to court-appointed
20 attorneys for representing the defendant in the case in which the
21 person is being sentenced,

1 defendant, and the court shall require that a notation of this
2 restriction be affixed to the defendant's driver license. The restriction
3 shall remain on the driver license not exceeding two (2) years to be
4 determined by the court. The restriction may be modified or removed
5 only by order of the court and notice of any modification order shall be
6 given to the Department of Public Safety. Upon the expiration of the
7 period for the restriction, the Department of Public Safety shall remove
8 the restriction without further court order. Failure to comply with the
9 order to install an ignition interlock device or operating any vehicle
10 without a device during the period of restriction shall be a violation of
11 the sentence and may be punished as deemed proper by the sentencing
12 court. As used in this paragraph, "ignition interlock device" means a
13 device that, without tampering or intervention by another person,
14 would prevent the defendant from operating a motor vehicle if the
15 defendant has a blood or breath alcohol concentration of two-
16 hundredths (0.02) or greater,
17 o. to be confined by electronic monitoring administered and supervised by
18 the Department of Corrections or a community sentence provider, and
19 payment of a monitoring fee to the supervising authority, not to exceed
20 Three Hundred Dollars (\$300.00) per month. Any fees collected
21 pursuant to this paragraph shall be deposited with the appropriate
22 supervising authority. Any willful violation of an order of the court for

1 the payment of the monitoring fee shall be a violation of the sentence
2 and may be punished as deemed proper by the sentencing court. As
3 used in this paragraph, "electronic monitoring" means confinement of
4 the defendant within a specified location or locations with supervision
5 by means of an electronic device approved by the Department of
6 Corrections which is designed to detect if the defendant is in the court-
7 ordered location at the required times and which records violations for
8 investigation by a qualified supervisory agency or person,
9 p. to perform one or more courses of treatment, education or
10 rehabilitation for any conditions, behaviors, deficiencies or disorders
11 which may contribute to criminal conduct, including but not limited to
12 alcohol and substance abuse, mental health, emotional health, physical
13 health, propensity for violence, antisocial behavior, personality or
14 attitudes, deviant sexual behavior, child development, parenting
15 assistance, job skills, vocational-technical skills, domestic relations,
16 literacy, education, or any other identifiable deficiency which may be
17 treated appropriately in the community and for which a certified
18 provider or a program recognized by the court as having significant
19 positive impact exists in the community. Any treatment, education or
20 rehabilitation provider required to be certified pursuant to law or rule
21 shall be certified by the appropriate state agency or a national
22 organization,

- 1 q. to submit to periodic testing for alcohol, intoxicating substance, or
2 controlled dangerous substances by a qualified laboratory,
- 3 r. to pay a fee, costs for treatment, education, supervision, participation
4 in a program, or any combination thereof as determined by the court,
5 based upon the defendant's ability to pay the fees or costs,
- 6 s. to be supervised by a Department of Corrections employee, a private
7 supervision provider, or other person designated by the court,
- 8 t. to obtain positive behavior modeling by a trained mentor,
- 9 u. to serve a term of confinement in a restrictive housing facility available
10 in the community,
- 11 v. to serve a term of confinement in the county jail at night or during
12 weekends pursuant to Section 991a-2 of this title or for work release,
- 13 w. to obtain employment or participate in employment-related activities,
- 14 x. to participate in mandatory day reporting to facilities or persons for
15 services, payments, duties or person-to-person contacts as specified by
16 the court,
- 17 y. to pay day fines not to exceed fifty percent (50%) of the net wages
18 earned. For purposes of this paragraph, "day fine" means the offender
19 is ordered to pay an amount calculated as a percentage of net daily
20 wages earned. The day fine shall be paid to the local community
21 sentencing system as reparation to the community. Day fines shall be
22 used to support the local system,

- 1 z. to submit to blood or saliva testing as required by subsection I of this
2 section,
- 3 aa. to repair or restore property damaged by the defendant's conduct, if
4 the court determines the defendant possesses sufficient skill to repair
5 or restore the property and the victim consents to the repairing or
6 restoring of the property,
- 7 bb. to restore damaged property in kind or payment of out-of-pocket
8 expenses to the victim, if the court is able to determine the actual out-
9 of-pocket expenses suffered by the victim,
- 10 cc. to attend a victim-offender reconciliation program if the victim agrees
11 to participate and the offender is deemed appropriate for participation,
- 12 dd. in the case of a person convicted of prostitution pursuant to Section
13 1029 of Title 21 of the Oklahoma Statutes, require such person to
14 receive counseling for the behavior which may have caused such
15 person to engage in prostitution activities. Such person may be
16 required to receive counseling in areas including but not limited to
17 alcohol and substance abuse, sexual behavior problems, or domestic
18 abuse or child abuse problems,
- 19 ee. in the case of a sex offender sentenced after November 1, 1989, and
20 required by law to register pursuant to the Sex Offender Registration
21 Act, the court shall require the person to comply with sex offender
22 specific rules and conditions of supervision established by the

1 Department of Corrections and require the person to participate in a
2 treatment program designed for the treatment of sex offenders during
3 the period of time while the offender is subject to supervision by the
4 Department of Corrections. The treatment program shall include
5 polygraph examinations specifically designed for use with sex offenders
6 for purposes of supervision and treatment compliance, and shall be
7 administered not less than each six (6) months during the period of
8 supervision. The examination shall be administered by a certified
9 licensed polygraph examiner. The treatment program must be
10 approved by the Department of Corrections or the Department of
11 Mental Health and Substance Abuse Services. Such treatment shall
12 be at the expense of the defendant based on the defendant's ability to
13 pay,

14 ff. in addition to other sentencing powers of the court, the court in the
15 case of a defendant being sentenced for a felony conviction for a
16 violation of Section 2-402 of Title 63 of the Oklahoma Statutes which
17 involves marijuana may require the person to participate in a drug
18 court program, if available. If a drug court program is not available,
19 the defendant may be required to participate in a community sanctions
20 program, if available,

21 gg. in the case of a person convicted of any false or bogus check violation,
22 as defined in Section 1541.4 of Title 21 of the Oklahoma Statutes,

1 impose a bogus check fee to be paid to the district attorney. The fee
2 shall be equal to the amount assessed as court costs plus Twenty-five
3 Dollars (\$25.00) for each check upon filing of the case in district court.
4 This money shall be deposited in the Bogus Check Restitution Program
5 Fund as established in subsection B of Section 114 of this title.
6 Additionally, the court may require the offender to pay restitution and
7 bogus check fees on any other bogus check or checks that have been
8 submitted to the District Attorney Bogus Check Restitution Program,
9 and
10 hh. any other provision specifically ordered by the court.

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

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

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

20 4. Order the defendant to reimburse the Oklahoma State Bureau of Investigation
21 for costs incurred by that agency during its investigation of the crime for which the
22 defendant pleaded guilty, nolo contendere or was convicted, including compensation for

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

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

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

14 7. In addition to the other sentencing powers of the court, in the case of a person
15 convicted of operating or being in control of a motor vehicle while the person was under
16 the influence of alcohol, other intoxicating substance, or a combination of alcohol or
17 another intoxicating substance, or convicted of operating a motor vehicle while the ability
18 of the person to operate such vehicle was impaired due to the consumption of alcohol,
19 require such person:

- 20 a. to participate in an alcohol and drug assessment and evaluation by an
21 assessment agency or assessment personnel certified by the
22 Department of Mental Health and Substance Abuse Services pursuant

1 to Section 3-460 of Title 43A of the Oklahoma Statutes and, as
2 determined by the assessment, participate in an alcohol and drug
3 substance abuse course or treatment program or both, pursuant to
4 Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes,
5 b. to attend a victims impact panel program, if such a program is offered
6 in the county where the judgment is rendered, and to pay a fee, not
7 less than Fifteen Dollars (\$15.00) nor more than Fifty Dollars (\$50.00)
8 as set by the governing authority of the program and approved by the
9 court, to the program to offset the cost of participation by the
10 defendant, if in the opinion of the court the defendant has the ability to
11 pay such fee,
12 c. to both participate in the alcohol and drug substance abuse course or
13 treatment program, pursuant to subparagraph a of this paragraph and
14 attend a victims impact panel program, pursuant to subparagraph b of
15 this paragraph,
16 d. to install, at the expense of the person, an ignition interlock device
17 approved by the Board of Tests for Alcohol and Drug Influence, upon
18 every motor vehicle operated by such person and to require that a
19 notation of this restriction be affixed to the person's driver license at
20 the time of reinstatement of the license. The restriction shall remain
21 on the driver license for such period as the court shall determine. The
22 restriction may be modified or removed by order of the court and notice

1 of the order shall be given to the Department of Public Safety. Upon
2 the expiration of the period for the restriction, the Department of
3 Public Safety shall remove the restriction without further court order.
4 Failure to comply with the order to install an ignition interlock device
5 or operating any vehicle without such device during the period of
6 restriction shall be a violation of the sentence and may be punished as
7 deemed proper by the sentencing court, or

8 e. beginning January 1, 1993, to submit to electronically monitored home
9 detention administered and supervised by the Department of
10 Corrections, and to pay to the Department a monitoring fee, not to
11 exceed Seventy-five Dollars (\$75.00) a month, to the Department of
12 Corrections, if in the opinion of the court the defendant has the ability
13 to pay such fee. Any fees collected pursuant to this subparagraph shall
14 be deposited in the Department of Corrections Revolving Fund. Any
15 order by the court for the payment of the monitoring fee, if willfully
16 disobeyed, may be enforced as an indirect contempt of court;

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

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

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

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

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

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

12 B. Notwithstanding any other provision of law, any person who is found guilty of a
13 violation of any provision of Section 761 or 11-902 of Title 47 of the Oklahoma Statutes or
14 any person pleading guilty or nolo contendere for a violation of any provision of such
15 sections shall be ordered to participate in, prior to sentencing, an alcohol and drug
16 assessment and evaluation by an assessment agency or assessment personnel certified by
17 the Department of Mental Health and Substance Abuse Services for the purpose of
18 evaluating the receptivity to treatment and prognosis of the person. The court shall
19 order the person to reimburse the agency or assessor for the evaluation. The fee shall be
20 the amount provided in subsection C of Section 3-460 of Title 43A of the Oklahoma
21 Statutes. The evaluation shall be conducted at a certified assessment agency, the office
22 of a certified assessor or at another location as ordered by the court. The agency or

1 assessor shall, within seventy-two (72) hours from the time the person is assessed,
2 submit a written report to the court for the purpose of assisting the court in its final
3 sentencing determination. No person, agency or facility operating an alcohol and drug
4 substance abuse evaluation program certified by the Department of Mental Health and
5 Substance Abuse Services shall solicit or refer any person evaluated pursuant to this
6 subsection for any treatment program or alcohol and drug substance abuse service in
7 which such person, agency or facility has a vested interest; however, this provision shall
8 not be construed to prohibit the court from ordering participation in or any person from
9 voluntarily utilizing a treatment program or alcohol and drug substance abuse service
10 offered by such person, agency or facility. If a person is sentenced to the custody of the
11 Department of Corrections and the court has received a written evaluation report
12 pursuant to this subsection, the report shall be furnished to the Department of
13 Corrections with the judgment and sentence. Any evaluation report submitted to the
14 court pursuant to this subsection shall be handled in a manner which will keep such
15 report confidential from the general public's review. Nothing contained in this
16 subsection shall be construed to prohibit the court from ordering judgment and sentence
17 in the event the defendant fails or refuses to comply with an order of the court to obtain
18 the evaluation required by this subsection.

19 C. When sentencing a person convicted of a crime, the court shall first consider a
20 program of restitution for the victim, as well as imposition of a fine or incarceration of
21 the offender. The provisions of paragraph 1 of subsection A of this section shall not apply
22 to defendants being sentenced upon their third or subsequent to their third conviction of

1 a felony or, beginning January 1, 1993, to defendants being sentenced for their second or
2 subsequent felony conviction for violation of Section 11-902 of Title 47 of the Oklahoma
3 Statutes, except as otherwise provided in this subsection. In the case of a person being
4 sentenced for their second or subsequent felony conviction for violation of Section 11-902
5 of Title 47 of the Oklahoma Statutes, the court may sentence the person pursuant to the
6 provisions of paragraph 1 of subsection A of this section if the court orders the person to
7 submit to electronically monitored home detention administered and supervised by the
8 Department of Corrections pursuant to subparagraph e of paragraph 7 of subsection A of
9 this section. Provided, the court may waive these prohibitions upon written application
10 of the district attorney. Both the application and the waiver shall be made part of the
11 record of the case.

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

15 E. Probation, for purposes of subsection A of this section, is a procedure by which a
16 defendant found guilty of a crime, whether upon a verdict or plea of guilty or upon a plea
17 of nolo contendere, is released by the court subject to conditions imposed by the court and
18 subject to the supervision of the Department of Corrections. Such supervision shall be
19 initiated upon an order of probation from the court, and shall not exceed two (2) years,
20 except as otherwise provided by law. In the case of a person convicted of a sex offense,
21 supervision shall begin immediately upon release from incarceration and shall not be
22 limited to two (2) years. Provided further, any supervision provided for in this section

1 may be extended for a period not to exceed the expiration of the maximum term or terms
2 of the sentence upon a determination by the Division of Probation and Parole of the
3 Department of Corrections that the best interests of the public and the release will be
4 served by an extended period of supervision.

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

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

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

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

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

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

10 H. As used in this section:

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

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

19 I. A person convicted of a felony offense or receiving any form of probation for an
20 offense in which registration is required pursuant to the Sex Offenders Registration Act
21 shall submit to deoxyribonucleic acid (DNA) testing for law enforcement identification
22 purposes in accordance with Section 150.27 of Title 74 of the Oklahoma Statutes and the

1 rules promulgated by the Oklahoma State Bureau of Investigation for the OSBI
2 Combined DNA Index System (CODIS) Database. Any defendant sentenced to probation
3 shall be required to submit to testing within thirty (30) days of sentencing either to the
4 Department of Corrections or to the county sheriff as directed by the court. Defendants
5 who are sentenced to a term of incarceration shall submit to testing in accordance with
6 Section 530.1 of Title 57 of the Oklahoma Statutes, for those defendants who enter the
7 custody of the Department of Corrections or to the county sheriff, for those defendants
8 sentenced to incarceration in a county jail. Convicted individuals who have previously
9 submitted to DNA testing under this section and for whom a valid sample is on file in the
10 OSBI Combined DNA Index System (CODIS) Database at the time of sentencing shall
11 not be required to submit to additional testing. Except as required by the Sex Offenders
12 Registration Act, a deferred judgment does not require submission to deoxyribonucleic
13 acid testing.

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

1 On and after the effective date of this act, any person arrested for a felony offense
2 shall be required to submit to deoxyribonucleic acid (DNA) testing for law enforcement
3 identification purposes in accordance with Section 150.27 of Title 74 of the Oklahoma
4 Statutes and the rules promulgated by the Oklahoma State Bureau of Investigation for
5 the OSBI Combined DNA Index System (CODIS) Database. Persons who have
6 previously submitted to DNA testing and who have a valid sample on file in the OSBI
7 Combined DNA Index System (CODIS) Database shall not be required to submit to
8 additional testing.

9 J. Samples of blood or saliva for DNA testing required by subsection I of this
10 section shall be taken by employees or contractors of the Department of Corrections or
11 the county sheriff or employees or contractors of the sheriff's office. The individuals shall
12 be properly trained to collect blood or saliva samples. Persons collecting blood or saliva
13 for DNA testing pursuant to this section shall be immune from civil liabilities arising
14 from this activity. The Department of Corrections and the county sheriff shall ensure the
15 collection of samples are mailed to the Oklahoma State Bureau of Investigation within
16 ten (10) days of the time the subject appears for testing or within ten (10) days of the
17 date the subject comes into physical custody to serve a term of incarceration. The
18 Department and the sheriff's office shall use sample kits provided by the OSBI and
19 procedures promulgated by the OSBI. Persons subject to DNA testing who are not
20 received at the Lexington Assessment and Reception Center shall be required to pay a
21 fee of Fifteen Dollars (\$15.00) to the agency collecting the sample for submission to the
22 OSBI Combined DNA Index System (CODIS) Database. Any fees collected by the

1 Department of Corrections or the county sheriff pursuant to this subsection shall be
2 deposited in the Department of Corrections revolving account or the sheriff's service fee
3 account.

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

8 SECTION 3. This act shall become effective January 1, 2008.

9 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY,
10 dated 03/29/07 - DO PASS, As Amended and Coauthored.