

EHB 1612

THE STATE SENATE
Monday, April 9, 2007

ENGROSSED

House Bill No. 1612

ENGROSSED 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:

SECTION 1. AMENDATORY 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), 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

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

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

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

21 d. to pay a reasonable sum into any trust fund,
22 established pursuant to the provisions of Sections 176
23 through 180.4 of Title 60 of the Oklahoma Statutes,

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

1 court shall consider the ability of the defendant to
2 make the payment, the financial hardship on the
3 defendant to make the required payment, and the
4 importance of the information to the prosecution of
5 the defendant as provided by the arresting officer or
6 the district attorney with due regard for the
7 confidentiality of the records of the certified local
8 crimestoppers program and the Oklahoma Reward System.
9 The court shall assess this repayment against the
10 defendant as a cost of prosecution. "Certified local
11 crimestoppers program" means a crimestoppers program
12 certified by the Office of the Attorney General
13 pursuant to Section 991g of this title. The "Oklahoma
14 Reward System" means the reward program established by
15 Section 150.18 of Title 74 of the Oklahoma Statutes,
16 h. to reimburse the Oklahoma State Bureau of
17 Investigation for costs incurred by that agency during
18 its investigation of the crime for which the defendant
19 pleaded guilty, nolo contendere or was convicted,
20 including compensation for laboratory, technical, or
21 investigation services performed by the Bureau if, in
22 the opinion of the court, the defendant is able to pay
23 without imposing manifest hardship on the defendant,

1 and if the costs incurred by the Bureau during the
2 investigation of the defendant's case may be
3 determined with reasonable certainty,
4 i. to reimburse the Oklahoma State Bureau of
5 Investigation and any authorized law enforcement
6 agency for all costs incurred by that agency for
7 cleaning up an illegal drug laboratory site for which
8 the defendant pleaded guilty, nolo contendere or was
9 convicted. The court clerk shall collect the amount
10 and may retain five percent (5%) of such monies to be
11 deposited in the Court Clerk Revolving Fund to cover
12 administrative costs and shall remit the remainder to
13 the Oklahoma State Bureau of Investigation to be
14 deposited in the OSBI Revolving Fund established by
15 Section 150.19a of Title 74 of the Oklahoma Statutes
16 or to the general fund wherein the other law
17 enforcement agency is located,
18 j. to pay a reasonable sum to the Crime Victims
19 Compensation Board, created by Section 142.2 et seq.
20 of Title 21 of the Oklahoma Statutes, for the benefit
21 of crime victims,

1 k. to reimburse the court fund for amounts paid to court-
2 appointed attorneys for representing the defendant in
3 the case in which the person is being sentenced,
4 l. to participate in an assessment and evaluation by an
5 assessment agency or assessment personnel certified by
6 the Department of Mental Health and Substance Abuse
7 Services pursuant to Section 3-460 of Title 43A of the
8 Oklahoma Statutes and, as determined by the
9 assessment, participate in an alcohol and drug
10 substance abuse course or treatment program or both,
11 pursuant to Sections 3-452 and 3-453 of Title 43A of
12 the Oklahoma Statutes, or as ordered by the court,
13 m. to be placed in a victims impact panel program or
14 victim/offender reconciliation program and payment of
15 a fee to the program of not less than Fifteen Dollars
16 (\$15.00) nor more than Fifty Dollars (\$50.00) as set
17 by the governing authority of the program to offset
18 the cost of participation by the defendant. Provided,
19 each victim/offender reconciliation program shall be
20 required to obtain a written consent form voluntarily
21 signed by the victim and defendant that specifies the
22 methods to be used to resolve the issues, the
23 obligations and rights of each person, and the

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

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

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

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

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

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

1 less than each six (6) months during the period of
2 supervision. The examination shall be administered by
3 a certified licensed polygraph examiner. The
4 treatment program must be approved by the Department
5 of Corrections or the Department of Mental Health and
6 Substance Abuse Services. Such treatment shall be at
7 the expense of the defendant based on the defendant's
8 ability to pay,

9 ff. in addition to other sentencing powers of the court,
10 the court in the case of a defendant being sentenced
11 for a felony conviction for a violation of Section 2-
12 402 of Title 63 of the Oklahoma Statutes which
13 involves marijuana may require the person to
14 participate in a drug court program, if available. If
15 a drug court program is not available, the defendant
16 may be required to participate in a community
17 sanctions program, if available,

18 gg. in the case of a person convicted of any false or
19 bogus check violation, as defined in Section 1541.4 of
20 Title 21 of the Oklahoma Statutes, impose a bogus
21 check fee to be paid to the district attorney. The
22 fee shall be equal to the amount assessed as court
23 costs plus Twenty-five Dollars (\$25.00) for each check

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

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

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

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

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

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

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

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

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

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

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

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

12 b. to attend a victims impact panel program, if such a
13 program is offered in the county where the judgment is
14 rendered, and to pay a fee, not less than Fifteen
15 Dollars (\$15.00) nor more than Fifty Dollars (\$50.00)
16 as set by the governing authority of the program and
17 approved by the court, to the program to offset the
18 cost of participation by the defendant, if in the
19 opinion of the court the defendant has the ability to
20 pay such fee,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 H. As used in this section:

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

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

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

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

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

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

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

13 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 4-3-07 - DO PASS.