

CS for EHB 1760

1 THE STATE SENATE
2 Tuesday, April 10, 2007

3 Committee Substitute for
4 ENGROSSED

5 House Bill No. 1760

6 COMMITTEE SUBSTITUTE FOR ENGROSSED HOUSE BILL NO. 1760 - By:
7 BLACKWELL and REYNOLDS of the House and LAMB and RILEY of the
8 Senate.

9 [sex offenders - supervision requirement for certain crimes
10 - probation provision - determination of numeric risk level
11 prior to release - registration requirements - records -
12 codification - effective date]

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

14 SECTION 1. AMENDATORY 10 O.S. 2001, Section 7115, as
15 last amended by Section 1, Chapter 326, O.S.L. 2006 (10 O.S. Supp.
16 2006, Section 7115), is amended to read as follows:

17 Section 7115. A. Any parent or other person who shall
18 willfully or maliciously engage in child abuse shall, upon
19 conviction, be guilty of a felony punishable by imprisonment in the
20 custody of the Department of Corrections not exceeding life
21 imprisonment, or by imprisonment in a county jail not exceeding one
22 (1) year, or by a fine of not less than Five Hundred Dollars
23 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both
24 such fine and imprisonment. As used in this subsection, "child
25 abuse" means the willful or malicious abuse, as defined by paragraph
26 1 of subsection B of Section 7102 of this title, of a child under

1 eighteen (18) years of age by another, or the act of willfully or
2 maliciously injuring, torturing or maiming a child under eighteen
3 (18) years of age by another.

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

19 C. Any parent or other person who shall willfully or
20 maliciously engage in child neglect shall, upon conviction, be
21 punished by imprisonment in the custody of the Department of
22 Corrections not exceeding life imprisonment, or by imprisonment in a
23 county jail not exceeding one (1) year, or by a fine of not less

1 than Five Hundred Dollars (\$500.00) nor more than Five Thousand
2 Dollars (\$5,000.00), or both such fine and imprisonment. As used in
3 this subsection, "child neglect" means the willful or malicious
4 neglect, as defined by paragraph 3 of subsection B of Section 7102
5 of this title, of a child under eighteen (18) years of age by
6 another.

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

1 E. Any parent or other person who shall willfully or
2 maliciously engage in child sexual abuse shall, upon conviction, be
3 punished by imprisonment in the custody of the Department of
4 Corrections not exceeding life imprisonment, or by imprisonment in a
5 county jail not exceeding one (1) year, or by a fine of not less
6 than Five Hundred Dollars (\$500.00) nor more than Five Thousand
7 Dollars (\$5,000.00), or both such fine and imprisonment, except as
8 provided in Section 51.1a of Title 21 of the Oklahoma Statutes.
9 Except for persons sentenced to life or life without parole, any
10 person sentenced to imprisonment for two (2) years or more for a
11 violation of this subsection shall be required to serve a term of
12 post-imprisonment supervision pursuant to subparagraph f of
13 paragraph 1 of subsection A of Section 991a of Title 22 of the
14 Oklahoma Statutes under conditions determined by the Department of
15 Corrections. The jury shall be advised that the mandatory post-
16 imprisonment supervision shall be in addition to the actual
17 imprisonment. As used in this section, "child sexual abuse" means
18 the willful or malicious sexual abuse, as defined by paragraph 6 of
19 subsection B of Section 7102 of this title, of a child under
20 eighteen (18) years of age by another.

21 F. Any parent or other person who shall willfully or
22 maliciously engage in enabling child sexual abuse shall, upon
23 conviction, be punished by imprisonment in the custody of the

1 Department of Corrections not exceeding life imprisonment, or by
2 imprisonment in a county jail not exceeding one (1) year, or by a
3 fine of not less than Five Hundred Dollars (\$500.00) nor more than
4 Five Thousand Dollars (\$5,000.00), or both such fine and
5 imprisonment. As used in this subsection, "enabling child sexual
6 abuse" means the causing, procuring or permitting of a willful or
7 malicious act of child sexual abuse, as defined by paragraph 6 of
8 subsection B of Section 7102 of this title, of a child under the age
9 of eighteen (18) by another. As used in this subsection, "permit"
10 means to authorize or allow for the care of a child by an individual
11 when the person authorizing or allowing such care knows or
12 reasonably should know that the child will be placed at risk of
13 sexual abuse as proscribed by this subsection.

14 G. Any parent or other person who shall willfully or
15 maliciously engage in child sexual exploitation shall, upon
16 conviction, be punished by imprisonment in the custody of the
17 Department of Corrections not exceeding life imprisonment, or by
18 imprisonment in a county jail not exceeding one (1) year, or by a
19 fine of not less than Five Hundred Dollars (\$500.00) nor more than
20 Five Thousand Dollars (\$5,000.00), or both such fine and
21 imprisonment. Except for persons sentenced to life or life without
22 parole, any person sentenced to imprisonment for two (2) years or
23 more for a violation of this subsection shall be required to serve a

1 term of post-imprisonment supervision pursuant to subparagraph f of
2 paragraph 1 of subsection A of Section 991a of Title 22 of the
3 Oklahoma Statutes under conditions determined by the Department of
4 Corrections. The jury shall be advised that the mandatory post-
5 imprisonment supervision shall be in addition to the actual
6 imprisonment. As used in this subsection, "child sexual
7 exploitation" means the willful or malicious sexual exploitation, as
8 defined by paragraph 7 of subsection B of Section 7102 of this
9 title, of a child under eighteen (18) years of age by another.

10 H. Any parent or other person who shall willfully or
11 maliciously engage in enabling child sexual exploitation shall, upon
12 conviction, be punished by imprisonment in the custody of the
13 Department of Corrections not exceeding life imprisonment, or by
14 imprisonment in a county jail not exceeding one (1) year, or by a
15 fine of not less than Five Hundred Dollars (\$500.00) nor more than
16 Five Thousand Dollars (\$5,000.00), or both such fine and
17 imprisonment. As used in this subsection, "enabling child sexual
18 exploitation" means the causing, procuring or permitting of a
19 willful or malicious act of child sexual exploitation, as defined by
20 paragraph 7 of subsection B of Section 7102 of this title, of a
21 child under eighteen (18) years of age by another. As used in this
22 subsection, "permit" means to authorize or allow for the care of a
23 child by an individual when the person authorizing or allowing such

1 care knows or reasonably should know that the child will be placed
2 at risk of sexual exploitation as proscribed by this subsection.

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

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

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

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

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

8 B. Except for persons sentenced to life or life without parole,
9 any person sentenced to imprisonment for two (2) years or more for a
10 violation of this subsection shall be required to serve a term of
11 post-imprisonment supervision pursuant to subparagraph f of
12 paragraph 1 of subsection A of Section 991a of Title 22 of the
13 Oklahoma Statutes under conditions determined by the Department of
14 Corrections. The jury shall be advised that the mandatory post-
15 imprisonment supervision shall be in addition to the actual
16 imprisonment.

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

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

1 First. To cause such other person to be confined or imprisoned
2 in this state against the will of the other person; or
3 Second. To cause such other person to be sent out of this state
4 against the will of the other person; or
5 Third. To cause such person to be sold as a slave, or in any
6 way held to service against the will of such person, shall be guilty
7 of a felony punishable by imprisonment in the ~~State Penitentiary~~
8 custody of the Department of Corrections not exceeding ten (10)
9 years. Upon any trial for a violation of this section, the consent
10 thereto of the person kidnapped or confined, shall not be a defense,
11 unless it appears satisfactorily to the jury, that such person was
12 above the age of twelve (12) years, and that such consent was not
13 extorted by threat, or by duress.
14 Except for persons sentenced to life or life without parole, any
15 person sentenced to imprisonment for two (2) years or more for a
16 violation of this subsection shall be required to serve a term of
17 post-imprisonment supervision pursuant to subparagraph f of
18 paragraph 1 of subsection A of Section 991a of Title 22 of the
19 Oklahoma Statutes under conditions determined by the Department of
20 Corrections. The jury shall be advised that the mandatory post-
21 imprisonment supervision shall be in addition to the actual
22 imprisonment.

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

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

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

13 B. 1. Any person convicted of a violation of this section,
14 except as provided in paragraph 2 of this subsection, shall be
15 guilty of a felony. The violator, upon conviction, shall be
16 punished by imprisonment in the State Penitentiary for a term not to
17 exceed ten (10) years, and by a fine not exceeding Ten Thousand
18 Dollars (\$10,000.00), or by both such fine and imprisonment. Such
19 person's term shall further be subject to the provisions of Section
20 13.1 of this title.

21 2. Any person convicted of violating the provisions of this
22 section by committing sexual abuse shall be guilty of a felony. The
23 person convicted of sexual abuse shall be punished by imprisonment

1 in the State Penitentiary for a term not to exceed fifteen (15)
2 years, and by a fine not exceeding Ten Thousand Dollars
3 (\$10,000.00), or by both such fine and imprisonment.

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

6 D. Except for persons sentenced to life or life without parole,
7 any person sentenced to imprisonment for two (2) years or more for a
8 violation of this subsection shall be required to serve a term of
9 post-imprisonment supervision pursuant to subparagraph f of
10 paragraph 1 of subsection A of Section 991a of Title 22 of the
11 Oklahoma Statutes under conditions determined by the Department of
12 Corrections. The jury shall be advised that the mandatory post-
13 imprisonment supervision shall be in addition to the actual
14 imprisonment.

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

17 Section 867. A. The first conviction of the crime of
18 trafficking in children by any person shall be a felony and
19 punishable by imprisonment in the State Penitentiary for not less
20 than one (1) year nor for more than three (3) years.

21 B. Conviction of the crime of trafficking in children,
22 subsequent to a prior conviction for such offense in any form, shall
23 be a felony and punishable by imprisonment in the State Penitentiary

1 for not less than three (3) years. No suspension of judgment or
2 sentence shall be permitted.

3 C. Except for persons sentenced to life or life without parole,
4 any person sentenced to imprisonment for two (2) years or more for a
5 violation of this subsection shall be required to serve a term of
6 post-imprisonment supervision pursuant to subparagraph f of
7 paragraph 1 of subsection A of Section 991a of Title 22 of the
8 Oklahoma Statutes under conditions determined by the Department of
9 Corrections. The jury shall be advised that the mandatory post-
10 imprisonment supervision shall be in addition to the actual
11 imprisonment.

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

14 Section 885. Persons who, being within the degrees of
15 consanguinity within which marriages are by the laws of the state
16 declared incestuous and void, intermarry with each other, or commit
17 adultery or fornication with each other, shall be guilty of a felony
18 punishable by imprisonment in the State Penitentiary not exceeding
19 ten (10) years. Except for persons sentenced to life or life
20 without parole, any person sentenced to imprisonment for two (2)
21 years or more for a violation of this subsection shall be required
22 to serve a term of post-imprisonment supervision pursuant to
23 subparagraph f of paragraph 1 of subsection A of Section 991a of

1 Title 22 of the Oklahoma Statutes under conditions determined by the
2 Department of Corrections. The jury shall be advised that the
3 mandatory post-imprisonment supervision shall be in addition to the
4 actual imprisonment.

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

8 Section 886. Every person who is guilty of the detestable and
9 abominable crime against nature, committed with mankind or with a
10 beast, is punishable by imprisonment in the penitentiary not
11 exceeding ten (10) years. Except for persons sentenced to life or
12 life without parole, any person sentenced to imprisonment for two
13 (2) years or more for a violation of this subsection shall be
14 required to serve a term of post-imprisonment supervision pursuant
15 to subparagraph f of paragraph 1 of subsection A of Section 991a of
16 Title 22 of the Oklahoma Statutes under conditions determined by the
17 Department of Corrections. The jury shall be advised that the
18 mandatory post-imprisonment supervision shall be in addition to the
19 actual imprisonment.

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

1 Section 888. A. Any person who forces another person to engage
2 in the detestable and abominable crime against nature, pursuant to
3 Section 886 of this title, upon conviction, is guilty of a felony
4 punishable by imprisonment in the State Penitentiary for a period of
5 not more than twenty (20) years. Except for persons sentenced to
6 life or life without parole, any person sentenced to imprisonment
7 for two (2) years or more for a violation of this subsection shall
8 be required to serve a term of post-imprisonment supervision
9 pursuant to subparagraph f of paragraph 1 of subsection A of Section
10 991a of Title 22 of the Oklahoma Statutes under conditions
11 determined by the Department of Corrections. The jury shall be
12 advised that the mandatory post-imprisonment supervision shall be in
13 addition to the actual imprisonment. Any person convicted of a
14 second violation of this section, where the victim of the second
15 offense is a person under sixteen (16) years of age, shall not be
16 eligible for probation, suspended or deferred sentence. Any person
17 convicted of a third or subsequent violation of this section, where
18 the victim of the third or subsequent offense is a person under
19 sixteen (16) years of age, shall be punished by imprisonment in the
20 State Penitentiary for a term of life or life without parole, in the
21 discretion of the jury, or in case the jury fails or refuses to fix
22 punishment then the same shall be pronounced by the court. Any
23 person convicted of a violation of this subsection after having been

1 twice convicted of a violation of subsection A of Section 1114 of
2 this title, a violation of Section 1123 of this title or sexual
3 abuse of a child pursuant to Section 7115 of Title 10 of the
4 Oklahoma Statutes, or of any attempt to commit any of these offenses
5 or any combination of said offenses, shall be punished by
6 imprisonment in the State Penitentiary for a term of life or life
7 without parole.

8 B. The crime of forcible sodomy shall include:

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

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

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

18 4. Sodomy committed by a state, county, municipal or political
19 subdivision employee or a contractor or an employee of a contractor
20 of the state, a county, a municipality or political subdivision of
21 this state upon a person who is under the legal custody, supervision
22 or authority of a state agency, a county, a municipality or a
23 political subdivision of this state; or

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

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

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

18 Except for persons sentenced to life or life without parole, any
19 person sentenced to imprisonment for two (2) years or more for a
20 violation of this subsection shall be required to serve a term of
21 post-imprisonment supervision pursuant to subparagraph f of
22 paragraph 1 of subsection A of Section 991a of Title 22 of the
23 Oklahoma Statutes under conditions determined by the Department of

1 Corrections. The jury shall be advised that the mandatory post-
2 imprisonment supervision shall be in addition to the actual
3 imprisonment.

4 SECTION 11. AMENDATORY 21 O.S. 2001, Section 1021, as
5 last amended by Section 1, Chapter 308, O.S.L. 2003 (21 O.S. Supp.
6 2006, Section 1021), is amended to read as follows:

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

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

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

16 3. Writes, composes, stereotypes, prints, photographs, designs,
17 copies, draws, engraves, paints, molds, cuts, or otherwise prepares,
18 publishes, sells, distributes, keeps for sale, knowingly downloads
19 on a computer, or exhibits any obscene material or child
20 pornography; or

21 4. Makes, prepares, cuts, sells, gives, loans, distributes,
22 keeps for sale, or exhibits any disc record, metal, plastic, or wax,

1 wire or tape recording, or any type of obscene material or child
2 pornography,
3 shall be guilty, upon conviction, of a felony and shall be punished
4 by the imposition of a fine of not less than Five Hundred Dollars
5 (\$500.00) nor more than Twenty Thousand Dollars (\$20,000.00) or by
6 imprisonment for not less than thirty (30) days nor more than ten
7 (10) years, or by both such fine and imprisonment.

8 B. Every person who:

- 9 1. Willfully solicits or aids a minor child to perform; or
- 10 2. Shows, exhibits, loans, or distributes to a minor child any
11 obscene material or child pornography for the purpose of inducing
12 said minor to participate in, any act specified in paragraphs 1, 2,
13 3 or 4 of subsection A of this section shall be guilty, upon
14 conviction, of a felony and shall be punished by imprisonment in a
15 state correctional institution for not less than ten (10) years nor
16 more than thirty (30) years.

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

19 D. Except for persons sentenced to life or life without parole,
20 any person sentenced to imprisonment for two (2) years or more for a
21 violation of this subsection shall be required to serve a term of
22 post-imprisonment supervision pursuant to subparagraph f of
23 paragraph 1 of subsection A of Section 991a of Title 22 of the

1 Oklahoma Statutes under conditions determined by the Department of
2 Corrections. The jury shall be advised that the mandatory post-
3 imprisonment supervision shall be in addition to the actual
4 imprisonment.

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

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

11 Section 1021.2 A. Any person who shall procure or cause the
12 participation of any minor under the age of eighteen (18) years in
13 any child pornography or who knowingly possesses, procures, or
14 manufactures, or causes to be sold or distributed any child
15 pornography shall be guilty, upon conviction, of a felony and shall
16 be punished by imprisonment for not more than twenty (20) years or
17 by the imposition of a fine of not more than Twenty-five Thousand
18 Dollars (\$25,000.00) or by both said fine and imprisonment. Persons
19 convicted under this section shall not be eligible for a deferred
20 sentence. Except for persons sentenced to life or life without
21 parole, any person sentenced to imprisonment for two (2) years or
22 more for a violation of this subsection shall be required to serve a
23 term of post-imprisonment supervision pursuant to subparagraph f of

1 paragraph 1 of subsection A of Section 991a of Title 22 of the
2 Oklahoma Statutes under conditions determined by the Department of
3 Corrections. The jury shall be advised that the mandatory post-
4 imprisonment supervision shall be in addition to the actual
5 imprisonment.

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

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

11 Section 1021.3 A. Any parent, guardian or individual having
12 custody of a minor under the age of eighteen (18) years who
13 knowingly permits or consents to the participation of a minor in any
14 child pornography shall be guilty of a felony and, upon conviction,
15 shall be imprisoned in the ~~State Penitentiary~~ custody of the
16 Department of Corrections for a period of not more than twenty (20)
17 years or a fine of not more than Twenty-five Thousand Dollars
18 (\$25,000.00) or by both such fine and imprisonment. Persons
19 convicted under this section shall not be eligible for a deferred
20 sentence. Except for persons sentenced to life or life without
21 parole, any person sentenced to imprisonment for two (2) years or
22 more for a violation of this subsection shall be required to serve a
23 term of post-imprisonment supervision pursuant to subparagraph f of

1 paragraph 1 of subsection A of Section 991a of Title 22 of the
2 Oklahoma Statutes under conditions determined by the Department of
3 Corrections. The jury shall be advised that the mandatory post-
4 imprisonment supervision shall be in addition to the actual
5 imprisonment.

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

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

11 Section 1040.13a A. It is unlawful for any person to
12 facilitate, encourage, offer or solicit sexual conduct with a minor,
13 or other individual the person believes to be a minor, by use of any
14 technology, or to engage in any communication for sexual or prurient
15 interest with any minor, or other individual the person believes to
16 be a minor, by use of any technology. For purposes of this
17 subsection, "by use of any technology" means the use of any
18 telephone or cell phone, computer disk (CD), digital video disk
19 (DVD), recording or sound device, CD-ROM, VHS, computer, computer
20 network or system, Internet or World Wide Web address including any
21 blog site or personal web address, e-mail address, Internet Protocol
22 address (IP), text messaging or paging device, any video, audio,
23 photographic or camera device of any computer, computer network or

1 system, cell phone, any other electrical, electronic, computer or
2 mechanical device, or any other device capable of any transmission
3 of any written or text message, audio or sound message,
4 photographic, video, movie, digital or computer-generated image, or
5 any other communication of any kind by use of an electronic device.

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

18 C. The fact that an undercover operative or law enforcement
19 officer was involved in the detection and investigation of an
20 offense pursuant to this section shall not constitute a defense to a
21 prosecution under this section.

22 D. Any violation of the provisions of this section shall be a
23 felony, punishable by a fine in an amount not to exceed Ten Thousand

1 Dollars (\$10,000.00), or by imprisonment in the custody of the
2 Department of Corrections for a term of not more than ten (10)
3 years, or by both such fine and imprisonment. For purposes of this
4 section, each communication shall constitute a separate offense.
5 Except for persons sentenced to life or life without parole, any
6 person sentenced to imprisonment for two (2) years or more for a
7 violation of this subsection shall be required to serve a term of
8 post-imprisonment supervision pursuant to subparagraph f of
9 paragraph 1 of subsection A of Section 991a of Title 22 of the
10 Oklahoma Statutes under conditions determined by the Department of
11 Corrections. The jury shall be advised that the mandatory post-
12 imprisonment supervision shall be in addition to the actual
13 imprisonment.

14 E. For purposes of any criminal prosecution pursuant to any
15 violation of this section, the person violating the provisions of
16 this section shall be deemed to be within the jurisdiction of this
17 state by the fact of accessing any computer, cellular phone or other
18 computer-related or satellite-operated device in this state,
19 regardless of the actual jurisdiction where the violator resides.

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

22 Section 1087. A. No person shall:

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

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

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

18 B. 1. Any person violating the provisions of this section
19 shall, upon conviction, be guilty of a felony punishable by
20 imprisonment of not less than one (1) year nor more than ten (10)
21 years.

22 2. Any owner, proprietor, keeper, manager, conductor, or other
23 person who knowingly permits any violation of this section in any

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

15 C. Except for persons sentenced to life or life without parole,
16 any person sentenced to imprisonment for two (2) years or more for a
17 violation of this subsection shall be required to serve a term of
18 post-imprisonment supervision pursuant to subparagraph f of
19 paragraph 1 of subsection A of Section 991a of Title 22 of the
20 Oklahoma Statutes under conditions determined by the Department of
21 Corrections. The jury shall be advised that the mandatory post-
22 imprisonment supervision shall be in addition to the actual
23 imprisonment.

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

3 Section 1088. A. No person shall:

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

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

16 3. Directly or indirectly keep, hold, detain, restrain, or
17 compel or attempt to keep, hold, detain, restrain, or compel a child
18 under eighteen (18) years of age to engage in the practice of
19 prostitution or in a house of prostitution or any place where
20 prostitution is practiced or allowed for the purpose of compelling
21 such child to directly or indirectly pay, liquidate, or cancel any
22 debt, dues, or obligations incurred, or said to have been incurred
23 by such child.

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

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

20 C. Except for persons sentenced to life or life without parole,
21 any person sentenced to imprisonment for two (2) years or more for a
22 violation of this subsection shall be required to serve a term of
23 post-imprisonment supervision pursuant to subparagraph f of

1 paragraph 1 of subsection A of Section 991a of Title 22 of the
2 Oklahoma Statutes under conditions determined by the Department of
3 Corrections. The jury shall be advised that the mandatory post-
4 imprisonment supervision shall be in addition to the actual
5 imprisonment.

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

8 Section 1111.1 Rape by instrumentation is an act within or
9 without the bonds of matrimony in which any inanimate object or any
10 part of the human body, not amounting to sexual intercourse is used
11 in the carnal knowledge of another person without his or her consent
12 and penetration of the anus or vagina occurs to that person.

13 Provided, further, that at least one of the circumstances specified
14 in Section 1111 of this title has been met. Except for persons
15 sentenced to life or life without parole, any person sentenced to
16 imprisonment for two (2) years or more for a violation of this
17 subsection shall be required to serve a term of post-imprisonment
18 supervision pursuant to subparagraph f of paragraph 1 of subsection
19 A of Section 991a of Title 22 of the Oklahoma Statutes under
20 conditions determined by the Department of Corrections. The jury
21 shall be advised that the mandatory post-imprisonment supervision
22 shall be in addition to the actual imprisonment.

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

4 Section 1115. Rape in the first degree is a felony punishable
5 by death or imprisonment in the ~~State Penitentiary~~ custody of the
6 Department of Corrections, for a term of not less than five (5)
7 years, life or life without parole. Except for persons sentenced to
8 life or life without parole, any person sentenced to imprisonment
9 for two (2) years or more for a violation of this subsection shall
10 be required to serve a term of post-imprisonment supervision
11 pursuant to subparagraph f of paragraph 1 of subsection A of Section
12 991a of Title 22 of the Oklahoma Statutes under conditions
13 determined by the Department of Corrections. The jury shall be
14 advised that the mandatory post-imprisonment supervision shall be in
15 addition to the actual imprisonment. Any person convicted of a
16 second or subsequent violation of subsection A of Section 1114 of
17 this title shall not be eligible for any form of probation. Any
18 person convicted of a third or subsequent violation of subsection A
19 of Section 1114 of this title or of an offense under Section 888 of
20 this title or an offense under Section 1123 of this title or sexual
21 abuse of a child pursuant to Section 7115 of Title 10 of the
22 Oklahoma Statutes, or any attempt to commit any of these offenses or

1 any combination of these offenses shall be punished by imprisonment
2 in the State Penitentiary for life or life without parole.

3 SECTION 19. AMENDATORY 21 O.S. 2001, Section 1123, as
4 last amended by Section 2, Chapter 284, O.S.L. 2006 (21 O.S. Supp.
5 2006, Section 1123), is amended to read as follows:

6 Section 1123. A. It is a felony for any person to knowingly
7 and intentionally:

8 1. Make any oral, written or electronically or computer-
9 generated lewd or indecent proposal to any child under sixteen (16)
10 years of age, or other individual the person believes to be a child
11 under sixteen (16) years of age, for the child to have unlawful
12 sexual relations or sexual intercourse with any person; or

13 2. Look upon, touch, maul, or feel the body or private parts of
14 any child under sixteen (16) years of age in any lewd or lascivious
15 manner by any acts against public decency and morality, as defined
16 by law; or

17 3. Ask, invite, entice, or persuade any child under sixteen
18 (16) years of age, or other individual the person believes to be a
19 child under sixteen (16) years of age, to go alone with any person
20 to a secluded, remote, or secret place, with the unlawful and
21 willful intent and purpose then and there to commit any crime
22 against public decency and morality, as defined by law, with the
23 child; or

1 4. In any manner lewdly or lasciviously look upon, touch, maul,
2 or feel the body or private parts of any child under sixteen (16)
3 years of age in any indecent manner or in any manner relating to
4 sexual matters or sexual interest; or

5 5. In a lewd and lascivious manner and for the purpose of
6 sexual gratification:

- 7 a. urinate or defecate upon a child under sixteen (16)
8 years of age,
9 b. ejaculate upon or in the presence of a child,
10 c. cause, expose, force or require a child to look upon
11 the body or private parts of another person,
12 d. force or require any child under sixteen (16) years of
13 age or other individual the person believes to be a
14 child under sixteen (16) years of age, to view any
15 obscene materials, child pornography or materials
16 deemed harmful to minors as such terms are defined by
17 Sections 1024.1 and 1040.75 of this title,
18 e. cause, expose, force or require a child to look upon
19 sexual acts performed in the presence of the child, or
20 f. force or require a child to touch or feel the body or
21 private parts of said child or another person.

22 Any person convicted of any violation of this subsection shall
23 be punished by imprisonment in the custody of the Department of

1 Corrections for not less than three (3) years nor more than twenty
2 (20) years. The provisions of this subsection shall not apply
3 unless the accused is at least three (3) years older than the
4 victim. Any person convicted of a second or subsequent violation of
5 this subsection shall be guilty of a felony punishable as provided
6 in this subsection and shall not be eligible for probation,
7 suspended or deferred sentence. Any person convicted of a third or
8 subsequent violation of this subsection shall be guilty of a felony
9 punishable by imprisonment in the custody of the Department of
10 Corrections for a term of life or life without parole, in the
11 discretion of the jury, or in case the jury fails or refuses to fix
12 punishment then the same shall be pronounced by the court. Any
13 person convicted of a violation of this subsection after having been
14 twice convicted of a violation of subsection A of Section 1114 of
15 this title, Section 888 of this title, sexual abuse of a child
16 pursuant to Section 7115 of Title 10 of the Oklahoma Statutes, or of
17 any attempt to commit any of these offenses or any combination of
18 convictions pursuant to these sections shall be punished by
19 imprisonment in the custody of the Department of Corrections for a
20 term of life or life without parole.

21 B. No person shall commit sexual battery on any other person.
22 "Sexual battery" shall mean the intentional touching, mauling or
23 feeling of the body or private parts of any person sixteen (16)

1 years of age or older, in a lewd and lascivious manner and without
2 the consent of that person or when committed by a state, county,
3 municipal or political subdivision employee or a contractor or an
4 employee of a contractor of the state, a county, a municipality or
5 political subdivision of this state upon a person who is under the
6 legal custody, supervision or authority of a state agency, a county,
7 a municipality or a political subdivision of this state.

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

12 D. The fact that an undercover operative or law enforcement
13 officer was involved in the detection and investigation of an
14 offense pursuant to this section shall not constitute a defense to a
15 prosecution under this section.

16 E. Except for persons sentenced to life or life without parole,
17 any person sentenced to imprisonment for two (2) years or more for a
18 violation of this subsection shall be required to serve a term of
19 post-imprisonment supervision pursuant to subparagraph f of
20 paragraph 1 of subsection A of Section 991a of Title 22 of the
21 Oklahoma Statutes under conditions determined by the Department of
22 Corrections. The jury shall be advised that the mandatory post-

1 imprisonment supervision shall be in addition to the actual
2 imprisonment.

3 SECTION 20. AMENDATORY Section 1, Chapter 209, O.S.L.
4 2003, as amended by Section 3, Chapter 284, O.S.L. 2006 (21 O.S.
5 Supp. 2006, Section 1125), is amended to read as follows:

6 Section 1125. A. A zone of safety is hereby created around
7 elementary, junior high, and high schools, licensed child care
8 ~~facilities~~ centers as defined by the Department of Human Services,
9 playgrounds, and parks. A person is prohibited from ~~being~~ loitering
10 within three hundred (300) feet of any elementary, junior high, or
11 high school, licensed child care facility, playground, or park if
12 the person has been convicted of a crime that requires the person to
13 register pursuant to the Sex Offenders Registration Act or the
14 person has been convicted of an offense in another jurisdiction,
15 which offense if committed or attempted in this state, would have
16 been punishable as one or more of the offenses listed in Section 582
17 of Title 57 of the Oklahoma Statutes and the victim was a child
18 under the age of thirteen (13) years.

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

1 of a second or subsequent violation of subsection A of this section
2 shall be punished by a fine not exceeding Two Thousand Five Hundred
3 Dollars (\$2,500.00), or by imprisonment in the custody of the
4 Department of Corrections for a term of not less than three (3)
5 years, or by both such fine and imprisonment. This proscription of
6 conduct shall not modify or remove any restrictions currently
7 applicable to the person by court order, conditions of probation or
8 as provided by other provision of law.

9 C. 1. A person shall be exempt from the prohibition of this
10 section regarding a school or a licensed child care facility only
11 under the following circumstances:

- 12 a. the person is the custodial parent or legal guardian
13 of a child who is an enrolled student at the school or
14 child care facility, and
- 15 b. the person is enrolling, delivering or retrieving such
16 child at the school or child care facility during
17 regular school or facility hours or for school-
18 sanctioned or child-care-facility-sanctioned
19 extracurricular activities, or
- 20 c. the person is the custodial parent or legal guardian
21 of a child that is participating in a school-
22 sanctioned or child-care-facility-sanctioned activity
23 and is accompanied by a person who is twenty-one (21)

1 years of age or older that has no previous felony
2 conviction for a crime that would require the person
3 to register pursuant to the Sex Offenders Registration
4 Act.

5 2. This exception shall not be construed to modify or remove
6 any restrictions applicable to the person by court order, conditions
7 of probation, or as provided by other provision of law.

8 D. For purpose of prosecution of any violation of this section,
9 the provisions of Section 51.1 of this title shall not apply.

10 SECTION 21. AMENDATORY 22 O.S. 2001, Section 991a, as
11 last amended by Section 16 of Enrolled House Bill No. 2195 of the
12 1st Session of the 51st Oklahoma Legislature, is amended to read as
13 follows:

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

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

22 a. to provide restitution to the victim as provided by
23 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, a
7 sex offender who is habitual or aggravated as defined by Section 584
8 of Title 57 of the Oklahoma Statutes and who is required to register
9 as a sex offender pursuant to the Oklahoma Sex Offenders
10 Registration Act shall be supervised by the Department of
11 Corrections for the duration of the registration period and shall be
12 assigned to a global position monitoring device by the Department of
13 Corrections for the duration of the registration period. The cost
14 of such monitoring device shall be reimbursed by the offender.

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

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

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

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

1 these prohibitions upon written application of the district
2 attorney. Both the application and the waiver shall be made part of
3 the record of the case.

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

7 E. Probation, for purposes of subsection A of this section, is
8 a procedure by which a defendant found guilty of a crime, whether
9 upon a verdict or plea of guilty or upon a plea of nolo contendere,
10 is released by the court subject to conditions imposed by the court
11 and subject to the supervision of the Department of Corrections.
12 Such supervision shall be initiated upon an order of probation from
13 the court, and shall not exceed two (2) years, except as otherwise
14 provided by law. In the case of a person convicted of a sex
15 offense, supervision shall begin immediately upon release from
16 incarceration or if parole is granted and shall not be limited to
17 two (2) years. Provided further, any supervision provided for in
18 this section may be extended for a period not to exceed the
19 expiration of the maximum term or terms of the sentence upon a
20 determination by the Division of Probation and Parole of the
21 Department of Corrections that the best interests of the public and
22 the release will be served by an 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 as
11 directed by the court. Defendants who are sentenced to a term of
12 incarceration shall submit to testing in accordance with Section
13 530.1 of Title 57 of the Oklahoma Statutes, for those defendants who
14 enter the custody of the Department of Corrections or to the county
15 sheriff, for those defendants sentenced to incarceration in a county
16 jail. Convicted individuals who have previously submitted to DNA
17 testing under this section and for whom a valid sample is on file in
18 the OSBI Combined DNA Index System (CODIS) Database at the time of
19 sentencing shall not be required to submit to additional testing.
20 Except as required by the Sex Offenders Registration Act, a deferred
21 judgment does not require submission to deoxyribonucleic acid
22 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 or the county sheriff
14 or employees or contractors of the sheriff's office. The
15 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 shall ensure the collection of samples are mailed to
20 the Oklahoma State Bureau of Investigation within ten (10) days of
21 the time the subject appears for testing or within ten (10) days of
22 the date the subject comes into physical custody to serve a term of
23 incarceration. The Department and the sheriff's office shall use

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

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

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

18 As used in the Oklahoma Statutes, "split sentence" means a
19 procedure by which the defendant is found guilty of a crime, whether
20 upon a verdict or plea of guilty or upon a plea of nolo contendere,
21 and is sentenced to a term of imprisonment for which the court
22 orders only a portion of the imprisonment term to be actually served

1 with the balance suspended and subject to conditional requirements
2 and supervision.

3 SECTION 23. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 582.1 of Title 57, unless there
5 is created a duplication in numbering, reads as follows:

6 Before a person, who will be subject to the provisions of the
7 Sex Offenders Registration Act, is due to be released from a
8 correctional institution, the Department of Corrections shall
9 determine the level of risk of the person to the community using the
10 sex offender screening tool developed or selected pursuant to
11 Section 27 of this act, and assign to the person a numeric risk
12 level of one, two, or three.

13 SECTION 24. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 582.2 of Title 57, unless there
15 is created a duplication in numbering, reads as follows:

16 A. No less than seven (7) days prior to the date on which a
17 person, who will be subject to the provisions of the Sex Offenders
18 Registration Act, is to be released from a correctional institution,
19 the person in charge of the correctional institution shall forward
20 the registration information, as provided in subsection A of Section
21 585 of Title 57 of the Oklahoma Statutes, and numeric risk level to
22 the Department of Corrections and to:

1 1. The local law enforcement authority in the municipality or
2 county in which the person expects to reside, if the person expects
3 to reside within this state; or

4 2. The local law enforcement authority that is identified by
5 the correctional institution as the agency designated by another
6 state to receive registration information, if the person expects to
7 reside in that other state and that other state has a registration
8 requirement for sex offenders.

9 B. If a person, who will be subject to the provisions of the
10 Sex Offenders Registration Act, received a suspended sentence or any
11 probationary term, including a deferred sentence imposed in
12 violation of subsection G of Section 991a of Title 22 of the
13 Oklahoma Statutes, the court shall, on the day of pronouncing the
14 judgment and sentence:

15 1. Make a determination of the numeric risk level of the person
16 using the sex offender screening tool developed or selected pursuant
17 to Section 27 of this act;

18 2. Assign to the person a numeric risk level of one, two, or
19 three; and

20 3. Notify the person of the obligation to register as a sex
21 offender as provided for in Section 585 of Title 57 of the Oklahoma
22 Statutes.

1 SECTION 25. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 582.3 of Title 57, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Not more than seven (7) days after receiving any
5 registration information and numeric risk level of a person, the
6 local law enforcement authority shall verify the basis on which the
7 person is subject to registration pursuant to the Sex Offenders
8 Registration Act, and the numeric risk level of the person.

9 B. Upon verification, the local law enforcement authority shall
10 immediately cause to be published notification in the newspaper of
11 largest paid circulation located in the city or municipality in
12 which the person subject to registration intends to reside or, if
13 there is no newspaper of paid circulation located in that city or
14 municipality, in the newspaper with the largest paid circulation in
15 the county; provided, however, a local law enforcement authority
16 shall not publish notice in a newspaper if the person subject to
17 registration is assigned a numeric risk level of one. If the local
18 law enforcement authority publishes notice under this subsection,
19 the local law enforcement authority shall publish a duplicate notice
20 in the newspaper, with any necessary corrections, during the week
21 immediately following the week of initial publication.

22 C. The local law enforcement authority shall include in the
23 notice by publication the following information:

- 1 1. The full name, age, and gender of the person;
- 2 2. A brief description of the offense for which the person is
- 3 subject to registration;
- 4 3. The municipality, numeric street address or physical
- 5 address, if a numeric street address is not available, and zip code
- 6 number where the person intends to reside;
- 7 4. Either a recent photograph of the person or the Internet
- 8 address of a web site on which the photograph of the person is
- 9 accessible free of charge; and
- 10 5. The numeric risk level assigned to the person and the
- 11 guidelines used to determine the risk level of a person subject to
- 12 registration.

13 D. The local law enforcement authority shall also immediately

14 provide notice by mail to the office of the superintendent of the

15 school district and to the administrator of any private primary or

16 secondary school located in the public school district in which the

17 person subject to registration intends to reside. On receipt of a

18 notice under this paragraph, the superintendent or administrator

19 shall release the information contained in the notice to appropriate

20 school district personnel including, but not limited to, campus

21 police officers and security personnel, principals, nurses, and

22 counselors.

1 SECTION 26. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 582.4 of Title 57, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Upon receipt of notice pursuant to the provisions of Section
5 25 of this act, that a person subject to registration is to be
6 released from a correctional institution, has been placed on any
7 form of probation or parole, or intends to move to a new residence
8 in this state, the Department of Corrections shall verify the
9 numeric risk level assigned to the person. If the person is
10 assigned a numeric risk level of three, the Department shall, not
11 more than seven (7) days after the date on which the person is
12 released or not more than seven (7) days after the date on which the
13 person moves, provide written notice mailed or delivered to at least
14 each residential address within a one-mile radius, in an area that
15 has not been subdivided, or a three-block area, in an area that has
16 been subdivided, of the place where the person intends to reside.

17 B. The Department shall include in the notice any information
18 that is public information.

19 C. The Department shall establish procedures for a person with
20 respect to whom notice is provided under subsection A of this
21 section to pay to the Department all costs incurred by the
22 Department in providing the notice. The person shall pay those

1 costs in accordance with the procedures established under this
2 subsection.

3 SECTION 27. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 582.5 of Title 57, unless there
5 is created a duplication in numbering, reads as follows:

6 A. The Department of Corrections shall establish a risk
7 assessment review committee composed of at least five (5) members,
8 each of whom is a state employee whose service on the review
9 committee is in addition to the regular duties of the employee. The
10 review committee, to the extent feasible, should include the
11 following:

- 12 1. One member having experience in law enforcement;
- 13 2. One member having experience as a sex offender treatment
14 provider;
- 15 3. One member having experience working with victims of sex
16 offenses; and
- 17 4. One member who is a social worker with a graduate degree in
18 social work.

19 B. The risk assessment review committee functions in an
20 oversight capacity. The committee shall:

- 21 1. Develop or select from among existing tools, a sex offender
22 screening tool to be used in determining the level of risk of a

1 person subject to registration pursuant to the provisions of the Sex
2 Offenders Registration Act;

3 2. Ensure that staff is trained on the use of the screening
4 tool;

5 3. Monitor the use of the screening tool in the state; and

6 4. Analyze other screening tools as they become available and
7 revise or replace the existing screening tool, if warranted.

8 C. The sex offender screening tool must use an objective point
9 system under which a person is assigned a designated number of
10 points for each of the various factors. In developing or selecting
11 the sex offender screening tool, the risk assessment review
12 committee shall use or shall select a screening tool that may be
13 adapted to use the following general guidelines:

14 1. Level one (low): a designated range of points on the sex
15 offender screening tool indicating that the person poses a low
16 danger to the community and will not likely engage in criminal
17 sexual conduct;

18 2. Level two (moderate): a designated range of points on the
19 sex offender screening tool indicating that the person poses a
20 moderate danger to the community and may continue to engage in
21 criminal sexual conduct; and

22 3. Level three (high): a designated range of points on the sex
23 offender screening tool indicating that the person poses a serious

1 danger to the community and will continue to engage in criminal
2 sexual conduct.

3 D. The risk assessment review committee, the Department of
4 Corrections, or a court may override a risk level only if the
5 entity:

6 1. Believes that the risk level assessed is not an accurate
7 prediction of the risk the offender poses to the community; and

8 2. Documents the reason for the override in the case file of
9 the offender.

10 E. All records and files relating to a person for whom a court,
11 or the Department of Corrections is required under this act to
12 determine a level of risk, shall be released to the court or the
13 Department of Corrections as appropriate, for the purpose of
14 determining the risk level of the person.

15 F. The provisions of the Oklahoma Open Meeting Act do not apply
16 to a meeting of the risk assessment review committee.

17 SECTION 28. AMENDATORY 57 O.S. 2001, Section 583, as
18 last amended by Section 41 of Enrolled House Bill No. 2195 of the
19 1st Session of the 51st Oklahoma Legislature, is amended to read as
20 follows:

21 Section 583. A. Any person who becomes subject to the
22 provisions of the Sex Offenders Registration Act on or after

1 November 1, 1989, shall ~~be registered~~ register, in person, as
2 follows:

3 1. With the Department of Corrections within three (3) business
4 days of being convicted or receiving a suspended sentence or any
5 probationary term, including a deferred sentence imposed in
6 violation of subsection G of Section 991c of Title 22 of the
7 Oklahoma Statutes, if the person is not incarcerated, or ~~within~~ not
8 less than three (3) business days ~~of~~ prior to the release of the
9 person from a correctional institution, except as provided in
10 subsection B of this section;

11 2. With the local law enforcement authority having jurisdiction
12 in the area where the person resides or intends to reside for seven
13 (7) consecutive days or longer, calculated beginning with the first
14 day. The registration is required within three (3) days after
15 entering the jurisdiction of the law enforcement authority; and

16 3. With the Department of Corrections and the local law
17 enforcement authority no less than three (3) business days prior to
18 abandoning or moving from the address of the previous registration.

19 For purposes of this section, "local law enforcement authority"
20 means:

21 a. the municipal police department, if the person resides or
22 intends to reside or stay within the jurisdiction of any
23 municipality of this state, or

- 1 b. the county sheriff, if the person resides or intends
2 to reside or stay at any place outside the
3 jurisdiction of any municipality within this state,
4 and
- 5 c. the police or security department of any institution
6 of higher learning within this state if the person:
- 7 (1) enrolls as a full-time or part-time student,
8 (2) is a full-time or part-time employee at an
9 institution of higher learning, or
10 (3) resides or intends to reside or stay on any
11 property owned or controlled by the institution
12 of higher learning.

13 B. Any person who has been convicted of an offense or received
14 a deferred judgment for an offense in another jurisdiction, which
15 offense if committed or attempted in this state, would have been
16 punishable as one or more of the offenses listed in Section 582 of
17 this title and who enters this state on or after November 1, 1989,
18 shall ~~be registered~~ register, in person, as follows:

- 19 1. With the Department of Corrections when the person enters
20 and intends to be in the state for any purpose for five (5)
21 consecutive days or longer, calculated beginning with the first day,
22 has any type of full-time or part-time employment, with or without
23 compensation for more than five (5) cumulative days in any sixty-day

1 period, or is enrolled as a full-time or part-time student within
2 this state. Such registration is required within two (2) days after
3 entering the state;

4 2. With the local law enforcement authority having jurisdiction
5 in the area where the person intends to reside or to stay for five
6 (5) consecutive days or longer, calculated beginning with the first
7 day, has any type of full-time or part-time employment, with or
8 without compensation for more than five (5) cumulative days in any
9 sixty-day period, or is enrolled as a full-time or part-time student
10 within this state. The registration is required with local law
11 enforcement within two (2) days after entering the jurisdiction of
12 the law enforcement authority;

13 3. With the Department of Corrections and the local law
14 enforcement authority no less than three (3) business days prior to
15 abandoning or moving from the address of the previous registration;
16 and

17 4. For persons convicted of an offense or receiving a deferred
18 judgment in another jurisdiction requiring registration, which
19 offense if committed or attempted in this state, would have been
20 punishable as one or more of the offenses listed in Section 582 of
21 this title, shall maintain the registration for a period of ten (10)
22 years from the date the person was initially required to register in
23 Oklahoma, unless the person was convicted of a crime that would be

1 classified as an habitual or aggravated sex offender within the
2 State of Oklahoma, at which time registration shall continue at all
3 times.

4 C. When a person has been convicted or received probation
5 within the State of Oklahoma and the person is not classified as an
6 habitual or aggravated sex offender with a numeric risk level of
7 three, the person shall be required to register ~~for a period of ten~~
8 ~~(10) years~~ as follows:

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

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

13 The registration period shall begin from the date of the completion
14 of the sentence ~~and the~~. The information received pursuant to the
15 registration with the Department of Corrections required by this
16 section shall be maintained by the Department of Corrections for at
17 least ten (10) years from the date of the last registration.

18 D. When a person has been convicted or received probation
19 within the State of Oklahoma and the person is not classified as an
20 habitual or aggravated sex offender with a numeric risk level of
21 three, the person shall be required to register ~~for a period of ten~~
22 ~~(10) years~~ as follows:

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

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

5 The registration period shall begin from the date of completion of
6 the sentence and the information received pursuant to the
7 registration with the local law enforcement authority required by
8 this section shall be maintained by such authority for at least ten
9 (10) years from the date of the last registration.

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

18 F. When registering an offender as provided in this section the
19 Department of Corrections or the local law enforcement agency having
20 jurisdiction shall:

21 1. Inform the offender of the duty to register and obtain the
22 information required for registration as described in this section;

1 2. Inform the offender that if the offender changes address,
2 the offender shall give notice of the move and the new address to
3 the Department of Corrections and to the local law enforcement
4 authority in the location in which the offender previously resided
5 in writing no later than three (3) days before the offender
6 establishes residence or is temporarily domiciled at the new
7 address;

8 3. Inform the offender that if the offender changes address to
9 another state, the offender shall give notice of the move and shall
10 register the new address with the Department of Corrections and with
11 a designated law enforcement agency in the new state not later than
12 ten (10) days before the offender establishes residency or is
13 temporarily domiciled in the new state, if the new state has a
14 registration requirement;

15 4. Inform the offender that if the offender participates in any
16 full-time or part-time employment, in another state, with or without
17 compensation for more than fourteen (14) cumulative days in any
18 sixty-day period or an aggregate period exceeding thirty (30) days
19 in a calendar year, then the offender has a duty to register as a
20 sex offender in that state;

21 5. Inform the offender that if the offender enrolls in any type
22 of school in another state as a full-time or part-time student then
23 the offender has a duty to register as a sex offender in that state;

1 6. Inform the offender that if the offender enrolls in any
2 school within this state as a full-time or part-time student, then
3 the offender has a duty to register as a sex offender with the
4 Department of Corrections and the local law enforcement authority;

5 7. Inform the offender that if the offender participates in any
6 full-time or part-time employment at any school, with or without
7 compensation, or participates in any vocational course or occupation
8 at any school in this state, then the offender has a duty to notify
9 the Department of Corrections and the local law enforcement
10 authority in writing of such employment or participation at least
11 three (3) days before commencing or upon terminating such employment
12 or participation;

13 8. Inform the offender that if the offender graduates,
14 transfers, drops, terminates or otherwise changes enrollment or
15 employment at any school in this state, then the offender shall
16 notify the Department of Corrections and the local law enforcement
17 authority in writing of such change in enrollment or employment
18 within three (3) days of the change; and

19 9. Require the offender to read and sign a form stating that
20 the duty of the person to register under the Sex Offenders
21 Registration Act has been explained.

1 ~~F.~~ G. For the purpose of this section, the "date of the
2 completion of the sentence" means the day an offender completes all
3 incarceration, probation and parole pertaining to the sentence.

4 ~~G.~~ H. Any person who resides in another state and who has been
5 convicted of an offense or received a deferred judgment for an
6 offense in this state, or in another jurisdiction, which offense if
7 committed or attempted in this state would have been punishable as
8 one or more of the offenses listed in Section 582 of this title, and
9 who is the spouse of a person living in this state shall be
10 registered as follows:

11 1. With the Department of Corrections when the person enters
12 and intends to be in the state for any purpose for five (5)
13 consecutive days or longer, calculated beginning with the first day
14 or an aggregate period of five (5) days or longer in a calendar
15 year. Such registration is required within two (2) days after
16 entering the state; and

17 2. With the local law enforcement authority having jurisdiction
18 in the area where the person intends to reside or to stay within
19 this state for two (2) consecutive days or longer, calculated
20 beginning with the first day. The registration is required with
21 local law enforcement within two (2) days after entering the
22 jurisdiction of the law enforcement authority.

1 SECTION 29. AMENDATORY 57 O.S. 2001, Section 584, as
2 last amended by Section 9, Chapter 284, O.S.L. 2006 (57 O.S. Supp.
3 2006, Section 584), is amended to read as follows:

4 Section 584. A. Any registration with the Department of
5 Corrections required by the Sex Offenders Registration Act shall be
6 in a form approved by the Department and shall include the following
7 information about the person registering:

8 1. The ~~person's~~ name of the person and all aliases used or
9 under which the person has been known;

10 2. A complete description of the person, including a photograph
11 and fingerprints, and when requested by the Department of
12 Corrections, such registrant shall submit to a blood or saliva test
13 for purposes of a deoxyribonucleic acid (DNA) profile. Submission
14 to testing for individuals registering shall be within thirty (30)
15 days of registration. Registrants who already have valid samples on
16 file in the Oklahoma State Bureau of Investigation (OSBI) DNA
17 Offender Database shall not be required to submit duplicate samples
18 for testing;

19 3. The offenses listed in Section 582 of this title for which
20 the person has been convicted or the person received a suspended
21 sentence or any form of probation, where the offense was committed,
22 where the person was convicted or received the suspended sentence or

1 any form of probation, and the name under which the person was
2 convicted or received the suspended sentence or probation;

3 4. The name and location of each hospital or penal institution
4 to which the person was committed for each offense listed in Section
5 582 of this title;

6 5. Where the person previously resided, where the person
7 currently resides, how long the person has resided there, how long
8 the person expects to reside there, and how long the person expects
9 to remain in the county and in this state. The Department of
10 Corrections shall conduct address verification of each registered
11 sex offender as follows:

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

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

16 The Department of Corrections shall mail a nonforwardable
17 verification form to the last_reported address of the person. The
18 person shall return the verification form in person to the local law
19 enforcement ~~agency~~ authority of that jurisdiction within ten (10)
20 days after receipt of the form and may be photographed by the local
21 law enforcement ~~agency~~ authority at that time. The local law
22 enforcement authority shall require the person to produce proof of
23 the identity of the person and current address. Upon confirming the

1 information contained within the verification form, the local law
2 enforcement agency authority shall forward the form to the
3 Department of Corrections within three (3) days after receipt of the
4 form. The verification form shall be signed by the person and state
5 the current address of the person. Failure to return the
6 verification form shall be a violation of the Sex Offenders
7 Registration Act. If the offender has been determined to be a
8 habitual or aggravated sex offender by the Department of Corrections
9 and has been assigned a numeric risk level of three, the address
10 verification shall be conducted every ninety (90) days. The
11 Department of Corrections shall notify the ~~district attorney's~~
12 office of the district attorney and local law enforcement ~~agency~~
13 authority of the appropriate county, within forty-five (45) days if
14 unable to verify the address of a sex offender. A local law
15 enforcement ~~agency~~ authority may notify the ~~district attorney's~~
16 office of the district attorney whenever it comes to the attention
17 of the local law enforcement ~~agency~~ authority that a sex offender is
18 not in compliance with any provisions of this act. A local law
19 enforcement authority designated as the primary registration
20 authority of the person may, at any time, mail a nonforwardable
21 verification form to the last-reported address of the person. The
22 person shall return the verification form in person to the local law
23 enforcement authority that mailed the form within ten (10) days

1 after receipt of the form. The local law enforcement authority
2 shall require the person to produce proof of the identity of the
3 person and current address;

4 6. The name and address of any school where the person expects
5 to become or is enrolled or employed for any length of time; ~~and~~

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

10 8. The numeric risk level of the person.

11 B. Conviction data and fingerprints shall be promptly
12 transmitted at the time of registration to the Oklahoma State Bureau
13 of Investigation (OSBI) and the Federal Bureau of Investigation
14 (FBI) if the state has not previously sent the information at the
15 time of conviction.

16 C. The registration with the local law enforcement authority
17 required by the Sex Offenders Registration Act shall be in a form
18 approved by the local law enforcement authority and shall include
19 the following information about the person registering:

20 1. The ~~person's~~ full name of the person, alias, date of birth,
21 sex, race, height, weight, eye color, social security number, driver
22 license number, and home address; ~~and~~

1 2. A description of the offense for which the offender was
2 convicted, the date of the conviction, ~~and~~ the sentence imposed, if
3 applicable;

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

5 4. The numeric risk level of the person.

6 For purposes of this section, "local law enforcement authority"
7 means:

8 a. the municipal police department, if the person resides
9 or intends to reside or stay within the jurisdiction
10 of any municipality of this state, or

11 b. the county sheriff, if the person resides or intends
12 to reside or stay at any place outside the
13 jurisdiction of any municipality within this state,
14 and

15 c. the police or security department of any institution
16 of higher learning within this state if the person:

17 (1) enrolls as a full-time or part-time student,

18 (2) is a full-time or part-time employee at an
19 institution of higher learning, or

20 (3) resides or intends to reside or stay on any
21 property owned or controlled by the institution
22 of higher learning.

1 D. Any person subject to the provisions of the Sex Offenders
2 Registration Act who changes an address shall give written
3 notification to the Department of Corrections and the local law
4 enforcement authority of the change of address and the new address
5 no later than three (3) business days prior to the abandonment of or
6 move from the current address. If the new address is under the
7 jurisdiction of a different local law enforcement authority, ~~the~~ :

8 1. The Department of Corrections and the local law enforcement
9 authority shall notify the new local law enforcement authority by
10 teletype, electronic transmission, or letter of the change of
11 address;

12 2. The offender shall notify the new local law enforcement
13 authority of any previous registration; and

14 3. The new local law enforcement authority shall notify the
15 most recent registering agency by teletype or letter of the change
16 in address of the offender. If the new address is in another state
17 the Department of Corrections shall promptly notify the agency
18 responsible for registration in that state of the new address of the
19 offender.

20 E. The Department of Corrections shall maintain a file of all
21 sex offender registrations. A copy of the information contained in
22 the registration shall promptly be available to state, county and
23 municipal law enforcement agencies, the State Superintendent of

1 Public Instruction, the Commissioner of Health, and the National Sex
2 Offender Registry maintained by the Federal Bureau of Investigation.
3 The file shall promptly be made available for public inspection or
4 copying pursuant to rules promulgated by the Department of
5 Corrections and may be made available through Internet access. The
6 Department of Corrections shall promptly provide all municipal
7 police departments, all county sheriff departments and all campus
8 police departments a list of those sex offenders registered and
9 living in their county.

10 F. The Superintendent of Public Instruction is authorized to
11 copy and shall distribute information from the sex offender registry
12 to school districts and individual public and private schools within
13 the state with a notice using the following or similar language: "A
14 person whose name appears on this registry has been convicted of a
15 sex offense. Continuing to employ a person whose name appears on
16 this registry may result in civil liability for the employer or
17 criminal prosecution pursuant to Section 589 of Title 57 of the
18 Oklahoma Statutes."

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

1 release information in accordance with the Sex Offenders
2 Registration Act.

3 H. Each local law enforcement ~~agency~~ authority shall make its
4 sex offender registry available upon request, without restriction,
5 at a cost that is no more than what is charged for other records
6 provided by the local law enforcement ~~agency~~ authority pursuant to
7 the Oklahoma Open Records Act.

8 When a local law enforcement ~~agency~~ authority sends a copy of or
9 otherwise makes the sex offender registry available to any public or
10 private school offering any combination of prekindergarten through
11 twelfth grade classes or child care facility licensed by the state,
12 the agency shall provide a notice using the following or similar
13 language: "A person whose name appears on this registry has been
14 convicted of a sex offense. Continuing to employ a person whose
15 name appears on this registry may result in civil liability for the
16 employer or criminal prosecution pursuant to Section 589 of Title 57
17 of the Oklahoma Statutes."

18 I. Samples of blood or saliva for DNA testing required by
19 subsection A of this section shall be taken by employees or
20 contractors of the Department of Corrections. Said individuals
21 shall be properly trained to collect blood or saliva samples.
22 Persons collecting samples for DNA testing pursuant to this section
23 shall be immune from civil liabilities arising from this activity.

1 The Department of Corrections shall ensure the collection of samples
2 is mailed to the Oklahoma State Bureau of Investigation (OSBI)
3 within ten (10) days of the time the subject appears for testing.
4 The Department shall use sample kits provided by the OSBI and
5 procedures promulgated by the OSBI. Persons subject to DNA testing
6 pursuant to this section shall be required to pay to the Department
7 of Corrections a fee of Fifteen Dollars (\$15.00). Any fees
8 collected pursuant to this subsection shall be deposited in the
9 Department of Corrections revolving account.

10 J. 1. Any person who has been convicted of or received a
11 suspended sentence or any probationary term, including a deferred
12 sentence imposed in violation of subsection G of Section 991c of
13 Title 22 of the Oklahoma Statutes, for any crime listed in Section
14 582 of this title and:

15 a. who is subsequently convicted of a crime or an attempt
16 to commit a crime listed in subsection A of Section
17 582 of this title, or

18 b. who enters this state after November 1, 1997, and who
19 has been convicted of an additional crime or attempted
20 crime which, if committed or attempted in this state,
21 would be a crime or an attempt to commit a crime
22 provided for in subsection A of Section 582 of this
23 title,

1 shall be subject to all of the registration requirements of this act
2 and shall be designated by the Department of Corrections as a
3 habitual sex offender. A habitual sex offender shall be required to
4 register for the lifetime of the habitual sex offender.

5 2. On or after November 1, 1999, any person who has been
6 convicted of a crime or an attempt to commit a crime, received a
7 suspended sentence or any probationary term, including a deferred
8 sentence imposed in violation of subsection G of Section 991c of
9 Title 22 of the Oklahoma Statutes, for a crime provided for in
10 Section 7115 of Title 10 of the Oklahoma Statutes, if the offense
11 involved sexual abuse or sexual exploitation as these terms are
12 defined in Section 7102 of Title 10 of the Oklahoma Statutes,
13 Section 885, 888, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma
14 Statutes shall be subject to all the registration requirements of
15 this act and shall be designated by the Department of Corrections as
16 an aggravated sex offender. An aggravated sex offender shall be
17 required to register for the lifetime of the aggravated sex
18 offender.

19 3. Upon registration of any person designated as a habitual or
20 aggravated sex offender, pursuant to this subsection, a local law
21 enforcement authority shall notify, by any method of communication
22 it deems appropriate, anyone that the local law enforcement
23 authority determines appropriate, including, but not limited to:

- 1 a. the family of the habitual or aggravated sex offender,
2 b. any prior victim of the habitual or aggravated sex
3 offender,
4 c. residential neighbors and churches, community parks,
5 schools, convenience stores, businesses and other
6 places that children or other potential victims may
7 frequent, and
8 d. a nursing facility, a specialized facility, a
9 residential care home, a continuum-of-care facility,
10 an assisted living center, and an adult day care
11 facility.

12 4. The notification may include, but is not limited to, the
13 following information:

- 14 a. the name and physical address of the habitual or
15 aggravated sex offender,
16 b. a physical description of the habitual or aggravated
17 sex offender, including, but not limited to, age,
18 height, weight and eye and hair color,
19 c. a description of the vehicle that the habitual or
20 aggravated sex offender is known to drive,
21 d. any conditions or restrictions upon the probation,
22 parole or conditional release of the habitual or
23 aggravated sex offender,

- 1 e. a description of the primary and secondary targets of
2 the habitual or aggravated sex offender,
3 f. a description of the method of offense of the habitual
4 or aggravated sex offender,
5 g. a current photograph of the habitual or aggravated sex
6 offender, ~~and~~
7 h. the name and telephone number of the probation or
8 parole officer of the habitual or aggravated sex
9 offender; and
10 i. the numeric risk level of the person.

11 5. The local law enforcement authority shall make the
12 notification provided for in this subsection regarding a habitual or
13 aggravated sex offender available to any person upon request.

14 K. If the probation and parole officer supervising a person
15 subject to registration receives information to the effect that the
16 status of the person has changed in any manner that affects proper
17 supervision of the person including, but not limited to, a change in
18 the physical health of the person, address, employment, or
19 educational status, higher educational status, incarceration, or
20 terms of release, the supervising officer or administrator shall
21 notify the appropriate local law enforcement authority or
22 authorities of that change.

1 L. Public officials, public employees, and public agencies are
2 immune from civil liability for good faith conduct under any
3 provision of the Sex Offenders Registration Act.

4 1. Nothing in the Sex Offenders Registration Act shall be
5 deemed to impose any liability upon or to give rise to a cause of
6 action against any public official, public employee, or public
7 agency for releasing information to the public or for failing to
8 release information in accordance with the Sex Offenders
9 Registration Act.

10 2. Nothing in this section shall be construed to prevent law
11 enforcement officers from notifying members of the public of any
12 persons that pose a danger under circumstances that are not
13 enumerated in the Sex Offenders Registration Act.

14 SECTION 30. AMENDATORY Section 1, Chapter 223, O.S.L.
15 2003, as amended by Section 11, Chapter 284, O.S.L. 2006 (57 O.S.
16 Supp. 2006, Section 590), is amended to read as follows:

17 Section 590. It is unlawful for any person registered pursuant
18 to the Sex Offenders Registration Act to reside, either temporarily
19 or permanently, within a two-thousand-foot radius of any public or
20 private school site, educational institution, a playground ~~or park~~
21 that is zoned by city, county, state, federal or tribal government,
22 or licensed child care ~~facility~~ center as defined by the Department
23 of Human Services. Establishment of a day care center or park in

1 the vicinity of the residence of a registered sex offender will not
2 require the relocation of the sex offender or the sale of the
3 property. On the effective date of this act, the distance indicated
4 in this section shall be measured from the nearest property line of
5 the residence of the person to the nearest property line of the
6 public or private school site, educational institution, playground,
7 park, or licensed child care facility; provided, any nonprofit
8 organization established and housing sex offenders prior to the
9 effective date of this provision shall be allowed to continue its
10 operation.

11 Nothing in this provision shall require any person to sell or
12 otherwise dispose of any real estate or home acquired or owned prior
13 to the conviction of the person as a sex offender. Any person
14 willfully violating the provisions of this section by intentionally
15 moving into any neighborhood or to any real estate or home within
16 the prohibited distance shall, upon conviction, be guilty of a
17 felony punishable by a fine not to exceed Three Thousand Dollars
18 (\$3,000.00), or by imprisonment in the custody of the Department of
19 Corrections for a term of not less than one (1) year nor more than
20 three (3) years, or by both such fine and imprisonment. Any person
21 convicted of a second or subsequent violation of this section shall
22 be punished by a fine not to exceed Three Thousand Dollars
23 (\$3,000.00), or by imprisonment in the custody of the Department of

1 Corrections for a term of not less than three (3) years, or by both
2 such fine and imprisonment.

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

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

18 The Legislature further finds that the likelihood of a sexually
19 violent predator engaging in repeat acts of predatory sexual
20 violence is high. The existing involuntary commitment procedure for
21 mentally ill persons pursuant to Title 43A of the Oklahoma Statutes
22 is inadequate to address the risk these sexually violent predators
23 pose to society.

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

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

13 As used in this act:

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

17 2. "Director" means the Director of the Department of
18 Corrections;

19 3. "Likely to engage in repeat act of sexual violence" means
20 the propensity of the person to commit acts of sexual violence is of
21 such a degree as to pose a menace to the health and safety of
22 others;

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

6 5. "Person" means an individual who is a potential or actual
7 subject of proceedings under this act;

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

11 7. "Sexually violent offense" means:

- 12 a. rape, pursuant to Section 1114 of Title 21 of the
13 Oklahoma Statutes,
- 14 b. rape by instrumentation, pursuant to Section 1111.1 of
15 Title 21 of the Oklahoma Statutes,
- 16 c. lewd, indecent proposals or acts against a child under
17 sixteen (16), pursuant to Section 1123 of Title 21 of
18 the Oklahoma Statutes,
- 19 d. incest, pursuant to Section 885 of Title 21 of the
20 Oklahoma Statutes,
- 21 e. forcible sodomy, pursuant to Section 888 of Title 21
22 of the Oklahoma Statutes,

- 1 f. any conviction for a felony offense in effect at any
2 time prior to the effective date of this act that is
3 comparable to a sexually violent offense as defined in
4 subparagraphs a through e of this paragraph or any
5 federal or other state conviction for a felony offense
6 that under the laws of this state would be a sexually
7 violent offense as defined in this paragraph,
8 g. an attempt, conspiracy or criminal solicitation to
9 commit a sexually violent offense as defined in this
10 paragraph, or
11 h. any act which, either at the time of sentencing for
12 the offense or subsequently during civil commitment
13 proceedings pursuant to this act, has been determined
14 beyond a reasonable doubt to have been sexually
15 motivated;

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

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

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

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

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

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

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

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

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

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

1 2. Documentation of institutional adjustment and any treatment
2 received.

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

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

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

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

1 A. Upon the filing of a petition under Section 34 of this act,
2 a judge shall determine whether probable cause exists to believe
3 that the person named in the petition is a sexually violent
4 predator. If such determination is made, the judge shall direct
5 that person be taken into custody.

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

- 11 1. Verify the identity of the person; and
- 12 2. Determine whether probable cause exists to believe that the
13 person is a sexually violent predator.

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

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

- 18 1. To be represented by counsel and, if indigent, the court
19 shall appoint counsel to assist the person;
- 20 2. To be allowed to present evidence on his or her behalf;
- 21 3. To be provided the opportunity to cross-examine witnesses
22 who present testimony against such person; and

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

3 E. If, at the conclusion of the hearing, a probable cause
4 determination is made, the court shall direct that the person be
5 transferred to an appropriate facility for an evaluation as to
6 whether the person is a sexually violent predator. The evaluation
7 shall be conducted by a person deemed to be professionally qualified
8 to conduct such an examination.

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

12 A. Within forty-five (45) days after the completion of the
13 probable cause hearing pursuant to Section 35 of this act, the court
14 shall conduct a trial to determine whether the person is a sexually
15 violent predator. At all stages of the proceedings under this act,
16 any person subject to this act shall be entitled to the assistance
17 of counsel, and if the person is indigent, the court shall appoint
18 counsel to assist the person. Whenever any person is subjected to
19 an examination under this act, the person may retain experts or
20 professional persons to perform an examination on behalf of that
21 person. When the person wishes to be examined by a qualified expert
22 or professional person chosen by that person, such examiner shall be
23 permitted to have reasonable access to the person for the purpose of

1 such examination, as well as to all relevant medical and
2 psychological records and reports. In the case of a person who is
3 indigent, the court, upon the request of the person, shall assist
4 the person in obtaining an expert or professional person to perform
5 an examination or participate in the trial on behalf of the person.

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

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

16 A. The court or jury shall determine whether, beyond a
17 reasonable doubt, the person is a sexually violent predator. If the
18 determination that the person is a sexually violent predator is made
19 by a jury, the determination shall be by unanimous verdict of the
20 jury. The verdict or court decision may be appealed. If the court
21 or jury determines that the person is a sexually violent predator,
22 the person shall be committed to the custody of the Department of
23 Corrections for control, care and treatment until such time as the

1 person is no longer a threat to the public. Such control, care and
2 treatment shall be provided at a facility operated by the Department
3 of Corrections.

4 B. At all times, persons committed for control, care and
5 treatment by the Department of Corrections pursuant to this act
6 shall be kept in a secure facility and such persons shall be
7 segregated at all times from any other person under the custody of
8 the Department of Corrections.

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

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

17 E. If the person charged with a sexually violent offense has
18 been found incompetent to stand trial, is about to be released from
19 the custody of the state and commitment of the person is sought
20 pursuant to this act, the court shall first hear evidence and
21 determine whether the person did commit the act or acts charged.
22 The rules of evidence applicable in criminal cases shall apply, and
23 all constitutional rights available to defendants at criminal

1 trials, other than the right not to be tried while incompetent,
2 shall apply. After hearing evidence on this issue, the court shall
3 make specific findings on the following:

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

5 2. The extent to which the incompetence or developmental
6 disability of the person affected the outcome of the hearing,
7 including its effect on the ability of the person to consult with
8 and assist counsel and to testify on his or her own behalf;

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

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

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

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

21 A. Each person committed under this act shall have a current
22 examination of the mental condition of the person made once every
23 year. The person may retain or, if the person is indigent and so

1 requests, the court may appoint a qualified professional person to
2 examine the person, and such expert or professional person shall
3 have access to all records concerning the person. The yearly report
4 shall be provided to the court that committed the person under this
5 act. The court shall conduct an annual review of the status of the
6 committed person. Nothing contained in this act shall prohibit the
7 person from otherwise petitioning the court for discharge at this
8 hearing. The Director of the Department of Corrections shall
9 provide the committed person with an annual written notice of the
10 right of the person to petition the court for release over the
11 objection of the Director. The notice shall contain a waiver of
12 rights. The Director shall forward the notice and waiver form to
13 the court with the annual report. The committed person shall have a
14 right to have an attorney represent the person at the hearing.

15 B. If the court, at the hearing, determines that probable cause
16 exists to believe that the mental abnormality or personality
17 disorder of the person has so changed that the person is safe to be
18 in transitional release, then the court shall set a hearing on the
19 issue. At the hearing, the committed person shall be entitled to be
20 present and entitled to the benefit of all constitutional
21 protections that were afforded the person at the initial commitment
22 proceeding. The district attorney or the Attorney General, if
23 requested by the district attorney, shall represent the state and

1 shall have a right to a jury trial and to have the committed person
2 evaluated by experts chosen by the state. The committed person
3 shall also have the right to have experts evaluate the person on his
4 or her behalf, and the court shall appoint an expert if the person
5 is indigent and requests an appointment. The burden of proof at the
6 hearing shall be upon the state to prove beyond a reasonable doubt
7 that the mental abnormality or personality disorder of the committed
8 person remains such that the person is not safe to be placed in
9 transitional release, and if transitionally released, is likely to
10 engage in acts of sexual violence.

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

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

1 E. At any time during which the person is in the transitional
2 release program and the treatment staff determines that the person
3 has violated any rule, regulation or directive associated with the
4 transitional release program, the treatment staff may remove the
5 person from the transitional release program and return the person
6 to the secure commitment facility, or may request the district court
7 to issue an emergency ex parte order directing any law enforcement
8 officer to take the person into custody and return the person to the
9 secure commitment facility. Any such request may be made verbally
10 or by telephone, but shall be followed in written or facsimile form
11 delivered to the court by not later than 5:00 p.m. of the first day
12 the district court is open for the transaction of business after the
13 verbal or telephonic request was made.

14 F. Upon the person being returned to the secure commitment
15 facility from the transitional release program, notice shall be
16 given by the Director of the Department of Corrections to the court.
17 The court shall set the matter for a hearing within two (2) working
18 days of receipt of notice of the person having been returned to the
19 secure commitment facility and cause notice thereof to be given to
20 the district attorney or Attorney General, the person and the
21 Director. The state shall have the burden of proof to show probable
22 cause that the person violated conditions of transitional release.
23 The hearing shall be to the court. At the conclusion of the

1 hearing, the court shall issue an order returning the person to the
2 secure commitment facility or to the transitional release program,
3 and may order such other further conditions with which the person
4 must comply if the person is returned to the transitional release
5 program.

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

9 A. If the Director of the Department of Corrections determines
10 that the mental abnormality or personality disorder of a person has
11 so changed that the person is not likely to engage in repeat acts of
12 sexual violence if placed in transitional release, the Director
13 shall authorize the person to petition the court for transitional
14 release. The petition shall be served upon the court and the
15 district attorney. The court, upon receipt of the petition for
16 transitional release, shall order a hearing within thirty (30) days.
17 The district attorney or the Attorney General, if requested by the
18 district attorney, shall represent the state and shall have the
19 right to have the petitioner examined by an expert or professional
20 person chosen by the district attorney or Attorney General. The
21 hearing shall be before a jury if demanded by the petitioner,
22 district attorney or Attorney General. The burden of proof shall be
23 upon the district attorney or Attorney General to show beyond a

1 reasonable doubt that the mental abnormality or personality disorder
2 of the petitioner remains such that the petitioner is not safe to be
3 at large and, if placed in transitional release, is likely to engage
4 in repeat acts of sexual violence.

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

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

13 A. During any period the person is in transitional release, the
14 person, at least once every year and at any other time deemed
15 appropriate by the treatment staff, shall be examined by the
16 treatment staff to determine if the mental abnormality or
17 personality disorder of the person has so changed as to warrant such
18 person being considered for conditional release. The treatment
19 staff shall forward a report of the examination to the court. The
20 court shall review the report of the examination. If the court
21 determines that probable cause exists to believe that the mental
22 abnormality or personality disorder of the person has so changed
23 that the person is safe to be placed in conditional release, the

1 court shall then set a hearing on the issue. The burden of proof at
2 the hearing shall be upon the state to prove beyond a reasonable
3 doubt that the mental abnormality or personality disorder of the
4 person remains such that the person is not safe to be at large and
5 that if placed on conditional release is likely to engage in repeat
6 acts of sexual violence. At the hearing, the person shall be
7 entitled to be present and entitled to the benefit of all
8 constitutional protections that were afforded the person at the
9 initial commitment proceeding. Subsequent to either a court review
10 or a hearing, the court shall issue an appropriate order with
11 findings of fact. The order of the court shall be provided to the
12 district attorney or the Attorney General, the person, and the
13 Director of the Department of Corrections.

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

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

22 A. If the court determines that the person should be placed on
23 conditional release, the court, based upon the recommendation of the

1 treatment staff, shall establish a treatment plan which the person
2 shall be ordered to follow. The treatment plan may include, but
3 shall not be limited to, the following provisions:

- 4 1. Determining where the person shall reside and with whom;
- 5 2. Taking prescribed medications;
- 6 3. Attending individual and group counseling;
- 7 4. Maintaining employment;
- 8 5. Having no contact with children;
- 9 6. Not frequenting facilities, locations or events in which
10 children are likely to be present; and
- 11 7. Not engaging in activities in which contact with children is
12 likely.

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

16 B. After a minimum of five (5) years have passed in which the
17 person has been free of violations of conditions of the treatment
18 plan, the treatment staff, or other professionals directed by the
19 court may examine the person to determine if the mental abnormality
20 or personality disorder of the person has changed so as to warrant
21 the person being considered for final discharge. The person
22 preparing the report shall forward the report to the court. The
23 court shall review the report. If the court determines that

1 probable cause exists to believe that the mental abnormality or
2 personality disorder of the person has so changed that the person is
3 safe to be entitled to final discharge, the court shall set a formal
4 hearing on the issue. The burden of proof at the hearing shall be
5 upon the state to prove beyond a reasonable doubt that the mental
6 abnormality or personality disorder of the person remains such that
7 the person is not appropriate for final discharge. At the hearing,
8 the person shall be entitled to be present and entitled to the
9 benefit of all constitutional protections that were afforded the
10 person at the initial commitment proceeding. Subsequent to either a
11 court review or a hearing, the court shall issue an appropriate
12 order with findings of fact. The order of the court shall be
13 provided to the district attorney or the Attorney General, the
14 person and the Director of the Department of Corrections.

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

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

13 E. Upon the person being returned to a secure commitment
14 facility from conditional release, notice shall be given by the
15 Director to the court. The court shall set the matter for a hearing
16 within two (2) business days of receipt of notice of the person
17 having been returned to the secure commitment facility. The court
18 shall provide notice to the district attorney or Attorney General,
19 the person and the Director. The burden of proof shall be upon the
20 state to show probable cause that the person violated the conditions
21 of conditional release. At the conclusion of the hearing, the court
22 shall issue an order returning the person to the secure commitment
23 facility, the transitional release program, or to conditional

1 release. The court may order such other further conditions with
2 which the person shall comply if the person is returned to either
3 the transitional release program or to conditional release.

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

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

11 Any person for whom a petition, pursuant to this act, has been
12 filed who is in the secure confinement of the state shall not be
13 eligible for bail, bond, house arrest or any other measures
14 releasing the person from the physical, protective custody of the
15 state.

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

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

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

4 Nothing in this act shall prohibit a person from filing a
5 petition for transitional release, conditional release or final
6 discharge pursuant to this act. However, if a person has previously
7 filed a petition for transitional release, conditional release or
8 final discharge without the approval of the Director of the
9 Department of Corrections and the court determined, either upon
10 review of the petition or following a hearing, that the petition was
11 frivolous or that the condition of the petitioner had not so changed
12 that the person was safe to be at large, then the court shall deny
13 the subsequent petition unless the petition contains facts upon
14 which a court could find the condition of the petitioner has so
15 changed that a hearing was warranted. Upon receipt of a first or
16 subsequent petition from the committed person without the approval
17 of the Director, the court shall endeavor whenever possible to
18 review the petition and determine if the petition is based upon
19 frivolous grounds and, if so, shall deny the petition without a
20 hearing.

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

1 The Director of the Department of Corrections shall be
2 responsible for providing all treatment services and all costs
3 relating to the evaluation and treatment of persons committed to the
4 custody of the Director under any provision of this act.

5 Reimbursement may be obtained by the Director for the cost of care
6 and treatment of persons committed to the custody of the Director.

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

10 In addition to any other information required to be released
11 under this act and prior to the release of a person committed under
12 this act, the Director of the Department of Corrections shall give
13 written notice of such release to any victim of the crime for which
14 the person was convicted who is alive and whose address is known to
15 the Director or, if the victim is deceased, to the family of the
16 victim, if the address of the family is known to the Director.
17 Failure to notify shall not be a reason for postponement of release.
18 Nothing in this section shall create a cause of action against the
19 state or an employee of the state acting within the scope of
20 employment as a result of the failure to notify as required in this
21 section.

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

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

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

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

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

21 A. The district attorney shall file a special allegation of
22 sexual motivation within ten (10) days after arraignment in every
23 criminal case other than sex offenses as listed in paragraph 7 of

1 Section 32 of this act and amendments thereto, when sufficient
2 admissible evidence exists, which, when considered with the most
3 plausible, reasonably foreseeable defense that could be raised under
4 the evidence, would justify a finding of sexual motivation by a
5 reasonable and objective fact finder.

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

16 C. The district attorney shall not withdraw the special
17 allegation of sexual motivation without approval of the court
18 through an order of dismissal of the special allegation. The court
19 shall not dismiss this special allegation unless it finds that such
20 an order is necessary to correct an error in the initial charging
21 decision or unless there are evidentiary problems which make proving
22 the special allegation doubtful.

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

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

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

10 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 4-4-07 - DO
11 PASS, As Amended and Coauthored.