

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 HOUSE BILL 1760

By: Blackwell

4
5
6 AS INTRODUCED

7 An Act relating to sex offenders; amending 10 O.S.
8 2001, Section 7115, as last amended by Section 1,
9 Chapter 326, O.S.L. 2006 (10 O.S. Supp. 2006, Section
10 7115), which relates to child sexual abuse and sexual
11 exploitation; adding supervision requirement for
12 certain crime; making certain acts unlawful;
13 providing penalty; amending 21 O.S. 2001, Section
14 681, which relates to felonious assaults; adding
15 supervision requirement for certain crime; amending
16 21 O.S. 2001, Section 741, as amended by Section 3,
17 Chapter 275, O.S.L. 2004 (21 O.S. Supp. 2006, Section
18 741), which relates to kidnapping; adding supervision
19 requirement for certain crime; amending 21 O.S. 2001,
20 Section 843.1, as amended by Section 8, Chapter 22,
21 O.S.L. 2002 (21 O.S. Supp. 2006, Section 843.1),
22 which relates to abuse by caretakers; adding
23 supervision requirement for certain crime; amending
24 21 O.S. 2001, Section 867, which relates to
trafficking in children; adding supervision
requirement for certain crime; amending 21 O.S. 2001,
Sections 885, 886, as amended by Section 8, Chapter
460, O.S.L. 2002 and 888, as last amended by Section
4, Chapter 62, O.S.L. 2006 (21 O.S. Supp. 2006,
Sections 886 and 888), which relate to incest, crimes
against nature, and forcible sodomy; adding
supervision requirement for certain crimes; amending
21 O.S. 2001, Section 891, which relates to child
stealing; adding supervision requirement for certain
crime; amending 21 O.S. 2001, Sections 1021, as last
amended by Section 1, Chapter 308, O.S.L. 2003,
1021.2, 1021.3 and 1040.13a, as last amended by
Section 2, Chapter 183, O.S.L. 2006 (21 O.S. Supp.
2006, Sections 1021 and 1040.13a), which relate to
obscenity and child pornography; adding supervision

1 requirement for certain crime; amending 21 O.S. 2001,
2 Sections 1087 and 1088, which relate to pandering;
3 adding supervision requirement for certain crime;
4 amending 21 O.S. Sections 1111.1, 1115, as amended by
5 Section 10, Chapter 460, O.S.L. 2002, 1123, as last
6 amended by Section 2, Chapter 284, O.S.L. 2006 and
7 Section 1, Chapter 209, O.S.L. 2003, as amended by
8 Section 3, Chapter 284, O.S.L. 2006 (21 O.S. Supp.
9 2006, Sections 1115, 1123 and 1125), which relate to
10 rape, lewd or indecent proposals and zone of safety;
11 adding supervision requirement for certain crime;
12 clarifying zone of safety requirements; amending 22
13 O.S. 2001, Section 991a, as last amended by Section
14 1, Chapter 294, O.S.L. 2006 (22 O.S. Supp. 2006,
15 Section 991a), which relates to sentencing powers of
16 the court; modifying probation provision relating to
17 sex offenders; establishing definition for split
18 sentences; requiring determination of numeric risk
19 level prior to release; directing certain information
20 and numeric risk level be forwarded to certain
21 entities; directing court to assign numeric risk
22 level and provide certain notification; requiring
23 verification of certain information by local law
24 enforcement; requiring publication of certain
information; providing an exception; providing for
duplicate notice; directing certain information be
included in notice; requiring notice be provided to
certain entities; authorizing release of information
to certain persons; requiring verification of numeric
risk level under certain circumstances; requiring
written notice to certain persons under certain
circumstances; stating notice requirements; providing
for establishment of procedures; requiring payment of
certain costs; providing for establishment of risk
assessment review committee; stating membership;
stating function of committee; providing guidelines
for selection of screening tool; providing for
override of numeric risk level under certain
circumstances; providing exemption to certain act;
amending 57 O.S. 2001, Sections 583, as last amended
by Section 12, Chapter 294, O.S.L. 2006 and 584, as
last amended by Section 9, Chapter 284, O.S.L. 2006
(57 O.S. Supp. 2006, Sections 583 and 584), which
relate to the Sex Offenders Registration Act;
clarifying registration requirements; modifying time
limitation for registration of certain persons;
increasing registration time periods for certain

1 persons; authorizing certain persons to petition the
2 court for removal from registration requirements;
3 modifying address verification requirements;
4 authorizing address verification by local law
5 enforcement; requiring notification to local law
6 enforcement of change in status; clarifying scope of
7 liability; amending Section 1, Chapter 223, O.S.L.
8 2003, as amended by Section 13, Chapter 294, O.S.L.
9 2006 (57 O.S. Supp. 2006, Section 590), which relates
10 to residency restrictions; clarifying residency
11 restriction requirements; stating legislative
12 findings; defining terms; providing for certain
13 notices regarding sexually violent predators;
14 providing immunity for certain persons; establishing
15 court procedures for commitment of sexually violent
16 predators; stating rights of person alleged to be a
17 sexually violent predator; providing for the
18 appointment of counsel; authorizing retainment of
19 experts for examinations; providing access to certain
20 records; authorizing certain persons to demand a jury
21 trial; providing jury trial guidelines; establishing
22 confinement and segregation requirements; directing
23 person be released under certain circumstances;
24 providing procedures for mistrials; establishing
commitment procedures for persons previously found
incompetent; providing for yearly examination of
committed persons; requiring annual review by the
court of committed persons; establishing procedures
for transitional release; authorizing and
establishing procedures for removal from the
transitional release program; authorizing person to
petition for transitional release upon approval by
certain person; establishing procedures for
transitional release; establishing procedures for
conditional release; providing treatment plan
guidelines; establishing procedures for final
discharge of committed person; authorizing return of
person to confinement under certain circumstances;
establishing procedures for persons returned to
confinement from conditional release; prohibiting the
eligibility of certain person for certain release
measures; directing conformity to certain
constitutional requirements; establishing guidelines
for persons petitioning for release or discharge;
providing for reimbursement of costs; requiring
certain agency to provide treatment services;
requiring notice prior to release of committed

1 persons; providing for the release of certain
2 records; requiring certain records be sealed;
3 establishing process for designating crime as
4 sexually motivated; providing severability clause;
5 providing for codification; and providing an
6 effective date.

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

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

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

1 B. Any parent or other person who shall willfully or
2 maliciously engage in enabling child abuse shall, upon conviction,
3 be 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. As used in
8 this subsection, "enabling child abuse" means the causing, procuring
9 or permitting of a willful or malicious act of child abuse, as
10 defined by paragraph 1 of subsection B of Section 7102 of this
11 title, of a child under eighteen (18) years of age by another. As
12 used in this subsection, "permit" means to authorize or allow for
13 the care of a child by an individual when the person authorizing or
14 allowing such care knows or reasonably should know that the child
15 will be placed at risk of abuse as proscribed by this subsection.

16 C. Any parent or other person who shall willfully or
17 maliciously engage in child neglect shall, upon conviction, be
18 punished by imprisonment in the custody of the Department of
19 Corrections not exceeding life imprisonment, or by imprisonment in a
20 county jail not exceeding one (1) year, or by a fine of not less
21 than Five Hundred Dollars (\$500.00) nor more than Five Thousand
22 Dollars (\$5,000.00), or both such fine and imprisonment. As used in
23 this subsection, "child neglect" means the willful or malicious
24 neglect, as defined by paragraph 3 of subsection B of Section 7102

1 of this title, of a child under eighteen (18) years of age by
2 another.

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

19 E. Any parent or other person who shall willfully or
20 maliciously engage in child sexual abuse 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
24 than Five Hundred Dollars (\$500.00) nor more than Five Thousand

1 Dollars (\$5,000.00), or both such fine and imprisonment, except as
2 provided in Section 51.1a of Title 21 of the Oklahoma Statutes.
3 Except for persons sentenced to life or life without parole, any
4 parent or other person sentenced to more than two (2) years of
5 imprisonment for a violation of this subsection shall serve a split
6 sentence as defined in Section 22 of this act. A minimum of three
7 (3) years of the sentence that is not a term of imprisonment shall
8 be under intensive supervision pursuant to subsection E of Section
9 991a of Title 22 of the Oklahoma Statutes and any other special
10 conditions developed for sex offenders as determined by the
11 Department of Corrections. The jury shall be advised of the
12 mandatory three (3) years of supervision that is not part of
13 imprisonment. As used in this section, "child sexual abuse" means
14 the willful or malicious sexual abuse, as defined by paragraph 6 of
15 subsection B of Section 7102 of this title, of a child under
16 eighteen (18) years of age by another.

17 F. Any parent or other person who shall willfully or
18 maliciously engage in enabling child sexual abuse shall, upon
19 conviction, be punished by imprisonment in the custody of the
20 Department of Corrections not exceeding life imprisonment, or by
21 imprisonment in a county jail not exceeding one (1) year, or by a
22 fine of not less than Five Hundred Dollars (\$500.00) nor more than
23 Five Thousand Dollars (\$5,000.00), or both such fine and
24 imprisonment. As used in this subsection, "enabling child sexual

1 abuse" means the causing, procuring or permitting of a willful or
2 malicious act of child sexual abuse, as defined by paragraph 6 of
3 subsection B of Section 7102 of this title, of a child under the age
4 of eighteen (18) by another. As used in this subsection, "permit"
5 means to authorize or allow for the care of a child by an individual
6 when the person authorizing or allowing such care knows or
7 reasonably should know that the child will be placed at risk of
8 sexual abuse as proscribed by this subsection.

9 G. Any parent or other person who shall willfully or
10 maliciously engage in child sexual exploitation shall, upon
11 conviction, be punished by imprisonment in the custody of the
12 Department of Corrections not exceeding life imprisonment, or by
13 imprisonment in a county jail not exceeding one (1) year, or by a
14 fine of not less than Five Hundred Dollars (\$500.00) nor more than
15 Five Thousand Dollars (\$5,000.00), or both such fine and
16 imprisonment. Except for persons sentenced to life or life without
17 parole, any parent or other person sentenced to more than two (2)
18 years of imprisonment for a violation of this subsection shall serve
19 a split sentence as defined in Section 22 of this act. A minimum of
20 three (3) years of the sentence that is not a term of imprisonment
21 shall be under intensive supervision pursuant to subsection E of
22 Section 991a of Title 22 of the Oklahoma Statutes and any other
23 special conditions developed for sex offenders as determined by the
24 Department of Corrections. The jury shall be advised of the

1 mandatory three (3) years of supervision that is not part of
2 imprisonment. As used in this subsection, "child sexual
3 exploitation" means the willful or malicious sexual exploitation, as
4 defined by paragraph 7 of subsection B of Section 7102 of this
5 title, of a child under eighteen (18) years of age by another.

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

22 I. Notwithstanding any other provision of law, any parent or
23 other person convicted of forcible anal or oral sodomy, rape, rape
24 by instrumentation, or lewd molestation of a child under fourteen

1 (14) years of age subsequent to a previous conviction for any
2 offense of forcible anal or oral sodomy, rape, rape by
3 instrumentation, or lewd molestation of a child under fourteen (14)
4 years of age shall be punished by death or by imprisonment for life
5 without parole.

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

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

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

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

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

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

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

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

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

22 Third. To cause such person to be sold as a slave, or in any
23 way held to service against the will of such person, shall be guilty
24 of a felony punishable by imprisonment in the ~~State Penitentiary~~

1 custody of the Department of Corrections not exceeding ten (10)
2 years. Upon any trial for a violation of this section, the consent
3 thereto of the person kidnapped or confined, shall not be a defense,
4 unless it appears satisfactorily to the jury, that such person was
5 above the age of twelve (12) years, and that such consent was not
6 extorted by threat, or by duress.

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

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

22 Section 843.1 A. 1. No caretaker or other person shall abuse,
23 neglect, commit sexual abuse, or exploit any person entrusted to the
24 care of such caretaker or other person in a nursing facility or

1 other setting, or knowingly cause, secure, or permit any of these
2 acts to be done.

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

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

15 2. Any person convicted of violating the provisions of this
16 section by committing sexual abuse shall be guilty of a felony. The
17 person convicted of sexual abuse shall be punished by imprisonment
18 in the State Penitentiary for a term not to exceed fifteen (15)
19 years, and by a fine not exceeding Ten Thousand Dollars
20 (\$10,000.00), or by both such fine and imprisonment.

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

23 D. Except for persons sentenced to life or life without parole,
24 any person convicted of violating this section where said offense

1 involved sexual abuse or sexual exploitation and the person is
2 sentenced to more than two (2) years of imprisonment shall serve a
3 split sentence as defined in Section 22 of this act. A minimum of
4 three (3) years of the sentence that is not a term of imprisonment
5 shall be under intensive supervision pursuant to subsection E of
6 Section 991a of Title 22 of the Oklahoma Statutes and any other
7 special conditions developed for sex offenders as determined by the
8 Department of Corrections. The jury shall be advised of the
9 mandatory three (3) years of supervision that is not part of
10 imprisonment.

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

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

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

22 C. Except for persons sentenced to life or life without parole,
23 any person convicted of violating this section and sentenced to more
24 than two (2) years of imprisonment shall serve a split sentence as

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

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

10 Section 885. Persons who, being within the degrees of
11 consanguinity within which marriages are by the laws of the state
12 declared incestuous and void, intermarry with each other, or commit
13 adultery or fornication with each other, shall be guilty of a felony
14 punishable by imprisonment in the State Penitentiary not exceeding
15 ten (10) years. Except for persons sentenced to life or life
16 without parole, any person convicted of violating this section and
17 sentenced to more than two (2) years of imprisonment shall serve a
18 split sentence as defined in Section 22 of this act. A minimum of
19 three (3) years of the sentence that is not a term of imprisonment
20 shall be under intensive supervision pursuant to subsection E of
21 Section 991a of Title 22 of the Oklahoma Statutes and any other
22 special conditions developed for sex offenders as determined by the
23 Department of Corrections. The jury shall be advised of the
24

1 mandatory three (3) years of supervision that is not part of
2 imprisonment.

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

6 Section 886. Every person who is guilty of the detestable and
7 abominable crime against nature, committed with mankind or with a
8 beast, is punishable by imprisonment in the penitentiary not
9 exceeding ten (10) years. Except for persons sentenced to life or
10 life without parole, any person convicted of violating this section
11 and sentenced to more than two (2) years of imprisonment shall serve
12 a split sentence as defined in Section 22 of this act. A minimum of
13 three (3) years of the sentence that is not a term of imprisonment
14 shall be under intensive supervision pursuant to subsection E of
15 Section 991a of Title 22 of the Oklahoma Statutes and any other
16 special conditions developed for sex offenders as determined by the
17 Department of Corrections. The jury shall be advised of the
18 mandatory three (3) years of supervision that is not part of
19 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:

23 Section 888. A. Any person who forces another person to engage
24 in the detestable and abominable crime against nature, pursuant to

1 Section 886 of this title, upon conviction, is guilty of a felony
2 punishable by imprisonment in the State Penitentiary for a period of
3 not more than twenty (20) years. Except for persons sentenced to
4 life or life without parole, any person convicted of violating this
5 section and sentenced to more than two (2) years of imprisonment
6 shall serve a split sentence as defined in Section 22 of this act.
7 A minimum of three (3) years of the sentence that is not a term of
8 imprisonment shall be under intensive supervision pursuant to
9 subsection E of Section 991a of Title 22 of the Oklahoma Statutes
10 and any other special conditions developed for sex offenders as
11 determined by the Department of Corrections. The jury shall be
12 advised of the mandatory three (3) years of supervision that is not
13 part of imprisonment. Any person convicted of a second violation of
14 this section, where the victim of the second offense is a person
15 under sixteen (16) years of age, shall not be eligible for
16 probation, suspended or deferred sentence. Any person convicted of
17 a third or subsequent violation of this section, where the victim of
18 the third or subsequent offense is a person under sixteen (16) years
19 of age, shall be punished by imprisonment in the State Penitentiary
20 for a term of life or life without parole, in the discretion of the
21 jury, or in case the jury fails or refuses to fix punishment then
22 the same shall be pronounced by the court. Any person convicted of
23 a violation of this subsection after having been twice convicted of
24 a violation of subsection A of Section 1114 of this title, a

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

6 B. The crime of forcible sodomy shall include:

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

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

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

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

22 5. Sodomy committed upon a person who is at least sixteen (16)
23 years of age but less than twenty (20) years of age and is a student
24 of any public or private secondary school, junior high or high

1 school, or public vocational school, with a person who is eighteen
2 (18) years of age or older and is employed by the same school
3 system.

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

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

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

1 SECTION 11. AMENDATORY 21 O.S. 2001, Section 1021, as
2 last amended by Section 1, Chapter 308, O.S.L. 2003 (21 O.S. Supp.
3 2006, Section 1021), is amended to read as follows:

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

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

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

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

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

22 shall be guilty, upon conviction, of a felony and shall be punished
23 by the imposition of a fine of not less than Five Hundred Dollars
24 (\$500.00) nor more than Twenty Thousand Dollars (\$20,000.00) or by

1 imprisonment for not less than thirty (30) days nor more than ten
2 (10) years, or by both such fine and imprisonment.

3 B. Every person who:

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

5 2. Shows, exhibits, loans, or distributes to a minor child any

6 obscene material or child pornography for the purpose of inducing

7 said minor to participate in, any act specified in paragraphs 1, 2,

8 3 or 4 of subsection A of this section shall be guilty, upon

9 conviction, of a felony and shall be punished by imprisonment in a

10 state correctional institution for not less than ten (10) years nor

11 more than thirty (30) years.

12 C. Persons convicted under this section shall not be eligible

13 for a deferred sentence.

14 D. Except for persons sentenced to life or life without parole,

15 any person convicted of violating this section and sentenced to more

16 than two (2) years of imprisonment shall serve a split sentence as

17 defined in Section 22 of this act. A minimum of three (3) years of

18 the sentence that is not a term of imprisonment shall be under

19 intensive supervision pursuant to subsection E of Section 991a of

20 Title 22 of the Oklahoma Statutes and any other special conditions

21 developed for sex offenders as determined by the Department of

22 Corrections. The jury shall be advised of the mandatory three (3)

23 years of supervision that is not part of imprisonment.

24

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

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

7 Section 1021.2 A. Any person who shall procure or cause the
8 participation of any minor under the age of eighteen (18) years in
9 any child pornography or who knowingly possesses, procures, or
10 manufactures, or causes to be sold or distributed any child
11 pornography shall be guilty, upon conviction, of a felony and shall
12 be punished by imprisonment for not more than twenty (20) years or
13 by the imposition of a fine of not more than Twenty-five Thousand
14 Dollars (\$25,000.00) or by both said fine and imprisonment. Persons
15 convicted under this section shall not be eligible for a deferred
16 sentence. Except for persons sentenced to life or life without
17 parole, any person convicted of violating this section and sentenced
18 to more than two (2) years of imprisonment shall serve a split
19 sentence as defined in Section 22 of this act. A minimum of three
20 (3) years of the sentence that is not a term of imprisonment shall
21 be under intensive supervision pursuant to subsection E of Section
22 991a of Title 22 of the Oklahoma Statutes and any other special
23 conditions developed for sex offenders as determined by the
24 Department of Corrections. The jury shall be advised of the

1 mandatory three (3) years of supervision that is not part of
2 imprisonment.

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

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

8 Section 1021.3 A. Any parent, guardian or individual having
9 custody of a minor under the age of eighteen (18) years who
10 knowingly permits or consents to the participation of a minor in any
11 child pornography shall be guilty of a felony and, upon conviction,
12 shall be imprisoned in the ~~State Penitentiary~~ custody of the
13 Department of Corrections for a period of not more than twenty (20)
14 years or a fine of not more than Twenty-five Thousand Dollars
15 (\$25,000.00) or by both such fine and imprisonment. Persons
16 convicted under this section shall not be eligible for a deferred
17 sentence. Except for persons sentenced to life or life without
18 parole, any person convicted of violating this section and sentenced
19 to more than two (2) years of imprisonment shall serve a split
20 sentence as defined in Section 22 of this act. A minimum of three
21 (3) years of the sentence that is not a term of imprisonment shall
22 be under intensive supervision pursuant to subsection E of Section
23 991a of Title 22 of the Oklahoma Statutes and any other special
24 conditions developed for sex offenders as determined by the

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

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

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

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

1 photographic, video, movie, digital or computer-generated image, or
2 any other communication of any kind by use of an electronic device.

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

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

19 D. Any violation of the provisions of this section shall be a
20 felony, punishable by a fine in an amount not to exceed Ten Thousand
21 Dollars (\$10,000.00), or by imprisonment in the custody of the
22 Department of Corrections for a term of not more than ten (10)
23 years, or by both such fine and imprisonment. For purposes of this
24 section, each communication shall constitute a separate offense.

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

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

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

19 Section 1087. A. No person shall:

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

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

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

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

17 2. Any owner, proprietor, keeper, manager, conductor, or other
18 person who knowingly permits any violation of this section in any
19 house, building, room, or other premises or any conveyances under
20 his control or of which he has possession shall, upon conviction for
21 the first offense, be guilty of a misdemeanor and punishable by
22 imprisonment in the county jail for a period of not less than six
23 (6) months nor more than one (1) year, and by a fine of not less
24 than Five Hundred Dollars (\$500.00) nor more than Five Thousand

1 Dollars (\$5,000.00). Upon conviction for a subsequent offense
2 pursuant to this subsection such person shall be guilty of a felony
3 and shall be punished by imprisonment in the ~~State Penitentiary~~
4 custody of the Department of Corrections for a period of not less
5 than one (1) year nor more than ten (10) years, or by a fine of not
6 less than Five Thousand Dollars (\$5,000.00) nor more than
7 Twenty-five Thousand Dollars (\$25,000.00) or by both such fine and
8 imprisonment.

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

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

21 Section 1088. A. No person shall:

22 1. By promise, threats, violence, or by any device or scheme,
23 including but not limited to the use of any controlled dangerous
24 substance prohibited pursuant to the provisions of the Uniform

1 Controlled Dangerous Substances Act, cause, induce, persuade, or
2 encourage a child under eighteen (18) years of age to engage or
3 continue to engage in prostitution or to become or remain an inmate
4 of a house of prostitution or other place where prostitution is
5 practiced;

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

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

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

24

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

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

24

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

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

8 Provided, further, that at least one of the circumstances specified
9 in Section 1111 of this title has been met. Except for persons
10 sentenced to life or life without parole, any person convicted of
11 violating this section and sentenced to more than two (2) years of
12 imprisonment shall serve a split sentence as defined in Section 22
13 of this act. A minimum of three (3) years of the sentence that is
14 not a term of imprisonment shall be under intensive supervision
15 pursuant to subsection E of Section 991a of Title 22 of the Oklahoma
16 Statutes and any other special conditions developed for sex
17 offenders as determined by the Department of Corrections. The jury
18 shall be advised of the mandatory three (3) years of supervision
19 that is not part of imprisonment.

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

23 Section 1115. Rape in the first degree is a felony punishable
24 by death or imprisonment in the ~~State Penitentiary~~ custody of the

1 Department of Corrections, for a term of not less than five (5)
2 years, life or life without parole. Except for persons sentenced to
3 life or life without parole, any person convicted of violating this
4 section and sentenced to more than two (2) years of imprisonment
5 shall serve a split sentence as defined in Section 22 of this act.
6 A minimum of three (3) years of the sentence that is not a term of
7 imprisonment shall be under intensive supervision pursuant to
8 subsection E of Section 991a of Title 22 of the Oklahoma Statutes
9 and any other special conditions developed for sex offenders as
10 determined by the Department of Corrections. The jury shall be
11 advised of the mandatory three (3) years of supervision that is not
12 part of imprisonment. Any person convicted of a second or
13 subsequent violation of subsection A of Section 1114 of this title
14 shall not be eligible for any form of probation. Any person
15 convicted of a third or subsequent violation of subsection A of
16 Section 1114 of this title or of an offense under Section 888 of
17 this title or an offense under Section 1123 of this title or sexual
18 abuse of a child pursuant to Section 7115 of Title 10 of the
19 Oklahoma Statutes, or any attempt to commit any of these offenses or
20 any combination of these offenses shall be punished by imprisonment
21 in the State Penitentiary for life or life without parole.

22 SECTION 19. AMENDATORY 21 O.S. 2001, Section 1123, as
23 last amended by Section 2, Chapter 284, O.S.L. 2006 (21 O.S. Supp.
24 2006, Section 1123), is amended to read as follows:

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

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

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

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

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

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

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

Any person convicted of any violation of this subsection shall be punished by imprisonment in the custody of the Department of Corrections for not less than three (3) years nor more than twenty (20) years. The provisions of this subsection shall not apply unless the accused is at least three (3) years older than the victim. Any person convicted of a second or subsequent violation of this subsection shall be guilty of a felony punishable as provided in this subsection and shall not be eligible for probation, suspended or deferred sentence. Any person convicted of a third or

1 subsequent violation of this subsection shall be guilty of a felony
2 punishable by imprisonment in the custody of the Department of
3 Corrections for a term of life or life without parole, in the
4 discretion of the jury, or in case the jury fails or refuses to fix
5 punishment then the same shall be pronounced by the court. Any
6 person convicted of a violation of this subsection after having been
7 twice convicted of a violation of subsection A of Section 1114 of
8 this title, Section 888 of this title, sexual abuse of a child
9 pursuant to Section 7115 of Title 10 of the Oklahoma Statutes, or of
10 any attempt to commit any of these offenses or any combination of
11 convictions pursuant to these sections shall be punished by
12 imprisonment in the custody of the Department of Corrections for a
13 term of life or life without parole.

14 B. No person shall commit sexual battery on any other person.
15 "Sexual battery" shall mean the intentional touching, mauling or
16 feeling of the body or private parts of any person sixteen (16)
17 years of age or older, in a lewd and lascivious manner and without
18 the consent of that person or when committed by a state, county,
19 municipal or political subdivision employee or a contractor or an
20 employee of a contractor of the state, a county, a municipality or
21 political subdivision of this state upon a person who is under the
22 legal custody, supervision or authority of a state agency, a county,
23 a municipality or a political subdivision of this state.

24

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

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

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

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

22 Section 1125. A. A zone of safety is hereby created around
23 elementary, junior high, and high schools, licensed child care
24 ~~facilities~~ centers as defined by the Department of Human Services,

1 playgrounds, and parks. A person is prohibited from ~~being~~ loitering
2 within three hundred (300) feet of any elementary, junior high, or
3 high school, licensed child care facility, playground, or park if
4 the person has been convicted of a crime that requires the person to
5 register pursuant to the Sex Offenders Registration Act or the
6 person has been convicted of an offense in another jurisdiction,
7 which offense if committed or attempted in this state, would have
8 been punishable as one or more of the offenses listed in Section 582
9 of Title 57 of the Oklahoma Statutes and the victim was a child
10 under the age of thirteen (13) years.

11 B. A person convicted of a violation of subsection A of this
12 section shall be guilty of a felony punishable by a fine not
13 exceeding Two Thousand Five Hundred Dollars (\$2,500.00), or by
14 imprisonment in the county jail for a term of not more than one (1)
15 year, or by both such fine and imprisonment. Any person convicted
16 of a second or subsequent violation of subsection A of this section
17 shall be punished by a fine not exceeding Two Thousand Five Hundred
18 Dollars (\$2,500.00), or by imprisonment in the custody of the
19 Department of Corrections for a term of not less than three (3)
20 years, or by both such fine and imprisonment. This proscription of
21 conduct shall not modify or remove any restrictions currently
22 applicable to the person by court order, conditions of probation or
23 as provided by other provision of law.

24

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

4 a. the person is the custodial parent or legal guardian
5 of a child who is an enrolled student at the school or
6 child care facility, and

7 b. the person is enrolling, delivering or retrieving such
8 child at the school or child care facility during
9 regular school or facility hours or for school-
10 sanctioned or child-care-facility-sanctioned
11 extracurricular activities, or

12 c. the person is the custodial parent or legal guardian
13 of a child that is participating in a school-
14 sanctioned or child-care-facility-sanctioned activity
15 and is accompanied by a person who is twenty-one (21)
16 years of age or older that has no previous felony
17 conviction for a crime that would require the person
18 to register pursuant to the Sex Offenders Registration
19 Act.

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

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

1 SECTION 21. AMENDATORY 22 O.S. 2001, Section 991a, as
2 last amended by Section 1, Chapter 294, O.S.L. 2006 (22 O.S. Supp.
3 2006, Section 991a), is amended to read as follows:

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

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

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

23 b. to reimburse any state agency for amounts paid by the
24 state agency for hospital and medical expenses

1 incurred by the victim or victims, as a result of the
2 criminal act for which such person was convicted,
3 which reimbursement shall be made directly to the
4 state agency, with interest accruing thereon at the
5 rate of twelve percent (12%) per annum,

6 c. to engage in a term of community service without
7 compensation, according to a schedule consistent with
8 the employment and family responsibilities of the
9 person convicted,

10 d. to pay a reasonable sum into any trust fund,
11 established pursuant to the provisions of Sections 176
12 through 180.4 of Title 60 of the Oklahoma Statutes,
13 and which provides restitution payments by convicted
14 defendants to victims of crimes committed within this
15 state wherein such victim has incurred a financial
16 loss,

17 e. to confinement in the county jail for a period not to
18 exceed six (6) months,

19 f. to confinement as provided by law together with a term
20 of post-imprisonment community supervision for not
21 less than three (3) years of the total term allowed by
22 law for imprisonment, with or without restitution;
23 provided, however, the authority of this provision is
24 limited to Section 7115 of Title 10 of the Oklahoma

1 Statutes when the offense involved sexual abuse or
2 sexual exploitation; Sections 681, 741 and 843.1 of
3 Title 21 of the Oklahoma Statutes when the offense
4 involved sexual abuse or sexual exploitation; and
5 Sections 865 et seq., 885, 886, 888, 891, 1021,
6 1021.2, 1021.3, 1040.13a, 1087 and 1088 of Title 21 of
7 the Oklahoma Statutes,

8 g. to repay the reward or part of the reward paid by a
9 certified local crimestoppers program and the Oklahoma
10 Reward System. In determining whether the defendant
11 shall repay the reward or part of the reward, the
12 court shall consider the ability of the defendant to
13 make the payment, the financial hardship on the
14 defendant to make the required payment, and the
15 importance of the information to the prosecution of
16 the defendant as provided by the arresting officer or
17 the district attorney with due regard for the
18 confidentiality of the records of the certified local
19 crimestoppers program and the Oklahoma Reward System.
20 The court shall assess this repayment against the
21 defendant as a cost of prosecution. "Certified local
22 crimestoppers program" means a crimestoppers program
23 certified by the Office of the Attorney General
24 pursuant to Section 991g of this title. The "Oklahoma

Reward System" means the reward program established by
Section 150.18 of Title 74 of the Oklahoma Statutes,
h. to reimburse the Oklahoma State Bureau of
Investigation for costs incurred by that agency during
its investigation of the crime for which the defendant
pleaded guilty, nolo contendere or was convicted,
including compensation for laboratory, technical, or
investigation services performed by the Bureau if, in
the opinion of the court, the defendant is able to pay
without imposing manifest hardship on the defendant,
and if the costs incurred by the Bureau during the
investigation of the defendant's case may be
determined with reasonable certainty,
i. to reimburse the Oklahoma State Bureau of
Investigation and any authorized law enforcement
agency for all costs incurred by that agency for
cleaning up an illegal drug laboratory site for which
the defendant pleaded guilty, nolo contendere or was
convicted. The court clerk shall collect the amount
and may retain five percent (5%) of such monies to be
deposited in the Court Clerk Revolving Fund to cover
administrative costs and shall remit the remainder to
the Oklahoma State Bureau of Investigation to be
deposited in the OSBI Revolving Fund established by

1 Section 150.19a of Title 74 of the Oklahoma Statutes
2 or to the general fund wherein the other law
3 enforcement agency is located,

- 4 j. to pay a reasonable sum to the Crime Victims
5 Compensation Board, created by Section 142.2 et seq.
6 of Title 21 of the Oklahoma Statutes, for the benefit
7 of crime victims,
- 8 k. to reimburse the court fund for amounts paid to court-
9 appointed attorneys for representing the defendant in
10 the case in which the person is being sentenced,
- 11 l. to participate in an assessment and evaluation by an
12 assessment agency or assessment personnel certified by
13 the Department of Mental Health and Substance Abuse
14 Services pursuant to Section 3-460 of Title 43A of the
15 Oklahoma Statutes and, as determined by the
16 assessment, participate in an alcohol and drug
17 substance abuse course or treatment program or both,
18 pursuant to Sections 3-452 and 3-453 of Title 43A of
19 the Oklahoma Statutes, or as ordered by the court,
- 20 m. to be placed in a victims impact panel program or
21 victim/offender reconciliation program and payment of
22 a fee to the program of not less than Fifteen Dollars
23 (\$15.00) nor more than Fifty Dollars (\$50.00) as set
24 by the governing authority of the program to offset

1 the cost of participation by the defendant. Provided,
2 each victim/offender reconciliation program shall be
3 required to obtain a written consent form voluntarily
4 signed by the victim and defendant that specifies the
5 methods to be used to resolve the issues, the
6 obligations and rights of each person, and the
7 confidentiality of the proceedings. Volunteer
8 mediators and employees of a victim/offender
9 reconciliation program shall be immune from liability
10 and have rights of confidentiality as provided in
11 Section 1805 of Title 12 of the Oklahoma Statutes,
12 n. to install, at the expense of the defendant, an
13 ignition interlock device approved by the Board of
14 Tests for Alcohol and Drug Influence. The device
15 shall be installed upon every motor vehicle operated
16 by the defendant, and the court shall require that a
17 notation of this restriction be affixed to the
18 defendant's driver license. The restriction shall
19 remain on the driver license not exceeding two (2)
20 years to be determined by the court. The restriction
21 may be modified or removed only by order of the court
22 and notice of any modification order shall be given to
23 the Department of Public Safety. Upon the expiration
24 of the period for the restriction, the Department of

1 Public Safety shall remove the restriction without
2 further court order. Failure to comply with the order
3 to install an ignition interlock device or operating
4 any vehicle without a device during the period of
5 restriction shall be a violation of the sentence and
6 may be punished as deemed proper by the sentencing
7 court. As used in this paragraph, "ignition interlock
8 device" means a device that, without tampering or
9 intervention by another person, would prevent the
10 defendant from operating a motor vehicle if the
11 defendant has a blood or breath alcohol concentration
12 of two-hundredths (0.02) or greater,

- 13 o. to be confined by electronic monitoring administered
14 and supervised by the Department of Corrections or a
15 community sentence provider, and payment of a
16 monitoring fee to the supervising authority, not to
17 exceed Three Hundred Dollars (\$300.00) per month. Any
18 fees collected pursuant to this paragraph shall be
19 deposited with the appropriate supervising authority.
20 Any willful violation of an order of the court for the
21 payment of the monitoring fee shall be a violation of
22 the sentence and may be punished as deemed proper by
23 the sentencing court. As used in this paragraph,
24 "electronic monitoring" means confinement of the

1 defendant within a specified location or locations
2 with supervision by means of an electronic device
3 approved by the Department of Corrections which is
4 designed to detect if the defendant is in the court-
5 ordered location at the required times and which
6 records violations for investigation by a qualified
7 supervisory agency or person,

8 p. to perform one or more courses of treatment, education
9 or rehabilitation for any conditions, behaviors,
10 deficiencies or disorders which may contribute to
11 criminal conduct, including but not limited to alcohol
12 and substance abuse, mental health, emotional health,
13 physical health, propensity for violence, antisocial
14 behavior, personality or attitudes, deviant sexual
15 behavior, child development, parenting assistance, job
16 skills, vocational-technical skills, domestic
17 relations, literacy, education, or any other
18 identifiable deficiency which may be treated
19 appropriately in the community and for which a
20 certified provider or a program recognized by the
21 court as having significant positive impact exists in
22 the community. Any treatment, education or
23 rehabilitation provider required to be certified
24

- 1 pursuant to law or rule shall be certified by the
2 appropriate state agency or a national organization,
- 3 q. to submit to periodic testing for alcohol,
4 intoxicating substance, or controlled dangerous
5 substances by a qualified laboratory,
- 6 r. to pay a fee, costs for treatment, education,
7 supervision, participation in a program, or any
8 combination thereof as determined by the court, based
9 upon the defendant's ability to pay the fees or costs,
- 10 s. to be supervised by a Department of Corrections
11 employee, a private supervision provider, or other
12 person designated by the court,
- 13 t. to obtain positive behavior modeling by a trained
14 mentor,
- 15 u. to serve a term of confinement in a restrictive
16 housing facility available in the community,
- 17 v. to serve a term of confinement in the county jail at
18 night or during weekends pursuant to Section 991a-2 of
19 this title or for work release,
- 20 w. to obtain employment or participate in employment-
21 related activities,
- 22 x. to participate in mandatory day reporting to
23 facilities or persons for services, payments, duties
- 24

1 or person-to-person contacts as specified by the
2 court,

3 y. to pay day fines not to exceed fifty percent (50%) of
4 the net wages earned. For purposes of this paragraph,
5 "day fine" means the offender is ordered to pay an
6 amount calculated as a percentage of net daily wages
7 earned. The day fine shall be paid to the local
8 community sentencing system as reparation to the
9 community. Day fines shall be used to support the
10 local system,

11 z. to submit to blood or saliva testing as required by
12 subsection I of this section,

13 aa. to repair or restore property damaged by the
14 defendant's conduct, if the court determines the
15 defendant possesses sufficient skill to repair or
16 restore the property and the victim consents to the
17 repairing or restoring of the property,

18 bb. to restore damaged property in kind or payment of out-
19 of-pocket expenses to the victim, if the court is able
20 to determine the actual out-of-pocket expenses
21 suffered by the victim,

22 cc. to attend a victim-offender reconciliation program if
23 the victim agrees to participate and the offender is
24 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
24 less than each six (6) months during the period of

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

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

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

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

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

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

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

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

19 4. Order the defendant to reimburse the Oklahoma State Bureau
20 of Investigation for costs incurred by that agency during its
21 investigation of the crime for which the defendant pleaded guilty,
22 nolo contendere or was convicted, including compensation for
23 laboratory, technical, or investigation services performed by the
24 Bureau if, in the opinion of the court, the defendant is able to pay

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

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

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

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

23 a. to participate in an alcohol and drug assessment and
24 evaluation by an assessment agency or assessment

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

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

17 c. to both participate in the alcohol and drug substance
18 abuse course or treatment program, pursuant to
19 subparagraph a of this paragraph and attend a victims
20 impact panel program, pursuant to subparagraph b of
21 this paragraph,

22 d. to install, at the expense of the person, an ignition
23 interlock device approved by the Board of Tests for
24 Alcohol and Drug Influence, upon every motor vehicle

1 operated by such person and to require that a notation
2 of this restriction be affixed to the person's driver
3 license at the time of reinstatement of the license.
4 The restriction shall remain on the driver license for
5 such period as the court shall determine. The
6 restriction may be modified or removed by order of the
7 court and notice of the order shall be given to the
8 Department of Public Safety. Upon the expiration of
9 the period for the restriction, the Department of
10 Public Safety shall remove the restriction without
11 further court order. Failure to comply with the order
12 to install an ignition interlock device or operating
13 any vehicle without such device during the period of
14 restriction shall be a violation of the sentence and
15 may be punished as deemed proper by the sentencing
16 court, or

17 e. beginning January 1, 1993, to submit to electronically
18 monitored home detention administered and supervised
19 by the Department of Corrections, and to pay to the
20 Department a monitoring fee, not to exceed Seventy-
21 five Dollars (\$75.00) a month, to the Department of
22 Corrections, if in the opinion of the court the
23 defendant has the ability to pay such fee. Any fees
24 collected pursuant to this subparagraph shall be

1 deposited in the Department of Corrections Revolving
2 Fund. Any order by the court for the payment of the
3 monitoring fee, if willfully disobeyed, may be
4 enforced as an indirect contempt of court;

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

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

20 10. In addition to the other sentencing powers of the court,
21 the court, in the case of a sex offender sentenced after November 1,
22 1989, and required by law to register pursuant to the Sex Offenders
23 Registration Act, shall require the person to participate in a
24 treatment program designed specifically for the treatment of sex

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

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

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

21 13. In addition to the other sentencing powers of the court, in
22 the case of a habitual or aggravated sex offender as defined by
23 Section 584 of Title 57 of the Oklahoma Statutes, who is required to
24 register as a sex offender pursuant to the Oklahoma Sex Offenders

1 Registration Act, the court shall order the habitual or aggravated
2 sex offender be assigned to a global position monitoring device for
3 the duration of the registration. The Department of Corrections
4 shall be responsible for monitoring the global position monitoring
5 device. The cost of such monitoring device shall be reimbursed by
6 the offender.

7 B. Notwithstanding any other provision of law, any person who
8 is found guilty of a violation of any provision of Section 761 or
9 11-902 of Title 47 of the Oklahoma Statutes or any person pleading
10 guilty or nolo contendere for a violation of any provision of such
11 sections shall be ordered to participate in, prior to sentencing, an
12 alcohol and drug assessment and evaluation by an assessment agency
13 or assessment personnel certified by the Department of Mental Health
14 and Substance Abuse Services for the purpose of evaluating the
15 receptivity to treatment and prognosis of the person. The court
16 shall order the person to reimburse the agency or assessor for the
17 evaluation. The fee shall be the amount provided in subsection C of
18 Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation
19 shall be conducted at a certified assessment agency, the office of a
20 certified assessor or at another location as ordered by the court.
21 The agency or assessor shall, within seventy-two (72) hours from the
22 time the person is assessed, submit a written report to the court
23 for the purpose of assisting the court in its final sentencing
24 determination. No person, agency or facility operating an alcohol

1 and drug substance abuse evaluation program certified by the
2 Department of Mental Health and Substance Abuse Services shall
3 solicit or refer any person evaluated pursuant to this subsection
4 for any treatment program or alcohol and drug substance abuse
5 service in which such person, agency or facility has a vested
6 interest; however, this provision shall not be construed to prohibit
7 the court from ordering participation in or any person from
8 voluntarily utilizing a treatment program or alcohol and drug
9 substance abuse service offered by such person, agency or facility.
10 If a person is sentenced to the custody of the Department of
11 Corrections and the court has received a written evaluation report
12 pursuant to this subsection, the report shall be furnished to the
13 Department of Corrections with the judgment and sentence. Any
14 evaluation report submitted to the court pursuant to this subsection
15 shall be handled in a manner which will keep such report
16 confidential from the general public's review. Nothing contained in
17 this subsection shall be construed to prohibit the court from
18 ordering judgment and sentence in the event the defendant fails or
19 refuses to comply with an order of the court to obtain the
20 evaluation required by this subsection.

21 C. When sentencing a person convicted of a crime, the court
22 shall first consider a program of restitution for the victim, as
23 well as imposition of a fine or incarceration of the offender. The
24 provisions of paragraph 1 of subsection A of this section shall not

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

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

20 E. Probation, for purposes of subsection A of this section, is
21 a procedure by which a defendant found guilty of a crime, whether
22 upon a verdict or plea of guilty or upon a plea of nolo contendere,
23 is released by the court subject to conditions imposed by the court
24 and subject to the supervision of the Department of Corrections.

1 Such supervision shall be initiated upon an order of probation from
2 the court, and shall not exceed two (2) years, except as otherwise
3 provided by law. In the case of a person convicted of a sex
4 offense, supervision shall begin immediately upon release from
5 incarceration or if parole is granted and shall not be limited to
6 two (2) years. Provided further, any supervision provided for in
7 this section may be extended for a period not to exceed the
8 expiration of the maximum term or terms of the sentence upon a
9 determination by the Division of Probation and Parole of the
10 Department of Corrections that the best interests of the public and
11 the release will be served by an extended period of supervision.

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

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

22 2. Any offender eligible to participate in the Program pursuant
23 to this act shall be eligible to participate in a county Program;
24 provided, participation in county-funded Programs shall not be

1 limited to offenders who would otherwise be sentenced to confinement
2 with the Department of Corrections.

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

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

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

22 H. As used in this section:

23 1. "Ignition interlock device" means a device that, without
24 tampering or intervention by another person, would prevent the

1 defendant from operating a motor vehicle if the defendant has a
2 blood or breath alcohol concentration of two-hundredths (0.02) or
3 greater; and

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

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

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

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

17 J. Samples of blood or saliva for DNA testing required by
18 subsection I of this section shall be taken by employees or
19 contractors of the Department of Corrections or the county sheriff
20 or employees or contractors of the sheriff's office. The
21 individuals shall be properly trained to collect blood or saliva
22 samples. Persons collecting blood or saliva for DNA testing
23 pursuant to this section shall be immune from civil liabilities
24 arising from this activity. The Department of Corrections and the

1 county sheriff shall ensure the collection of samples are mailed to
2 the Oklahoma State Bureau of Investigation within ten (10) days of
3 the time the subject appears for testing or within ten (10) days of
4 the date the subject comes into physical custody to serve a term of
5 incarceration. The Department and the sheriff's office shall use
6 sample kits provided by the OSBI and procedures promulgated by the
7 OSBI. Persons subject to DNA testing who are not received at the
8 Lexington Assessment and Reception Center shall be required to pay a
9 fee of Fifteen Dollars (\$15.00) to the agency collecting the sample
10 for submission to the OSBI Combined DNA Index System (CODIS)
11 Database. Any fees collected by the Department of Corrections or
12 the county sheriff pursuant to this subsection shall be deposited in
13 the Department of Corrections revolving account or the sheriff's
14 service fee account.

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
23 with the balance suspended and subject to conditional requirements
24 and supervision.

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

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

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

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

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

24

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

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

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

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

17 3. Notify the person of the obligation to register as a sex
18 offender as provided for in Section 585 of Title 57 of the Oklahoma
19 Statutes.

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

23 A. Not more than seven (7) days after receiving any
24 registration information and numeric risk level of a person, the

1 local law enforcement authority shall verify the basis on which the
2 person is subject to registration pursuant to the Sex Offenders
3 Registration Act, and the numeric risk level of the person.

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

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

- 19 1. The full name, age, and gender of the person;
- 20 2. A brief description of the offense for which the person is
21 subject to registration;
- 22 3. The municipality, numeric street address or physical
23 address, if a numeric street address is not available, and zip code
24 number where the person intends to reside;

1 4. Either a recent photograph of the person or the Internet
2 address of a web site on which the photograph of the person is
3 accessible free of charge; and

4 5. The numeric risk level assigned to the person and the
5 guidelines used to determine the risk level of a person subject to
6 registration.

7 D. The local law enforcement authority shall also immediately
8 provide notice by mail to the office of the superintendent of the
9 school district and to the administrator of any private primary or
10 secondary school located in the public school district in which the
11 person subject to registration intends to reside. On receipt of a
12 notice under this paragraph, the superintendent or administrator
13 shall release the information contained in the notice to appropriate
14 school district personnel including, but not limited to, campus
15 police officers and security personnel, principals, nurses, and
16 counselors.

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

20 A. Upon receipt of notice pursuant to the provisions of Section
21 25 of this act, that a person subject to registration is to be
22 released from a correctional institution, has been placed on any
23 form of probation or parole, or intends to move to a new residence
24 in this state, the Department of Corrections shall verify the

1 numeric risk level assigned to the person. If the person is
2 assigned a numeric risk level of three, the Department shall, not
3 more than seven (7) days after the date on which the person is
4 released or not more than seven (7) days after the date on which the
5 person moves, provide written notice mailed or delivered to at least
6 each residential address within a one-mile radius, in an area that
7 has not been subdivided, or a three-block area, in an area that has
8 been subdivided, of the place where the person intends to reside.

9 B. The Department shall include in the notice any information
10 that is public information.

11 C. The Department shall establish procedures for a person with
12 respect to whom notice is provided under subsection A of this
13 section to pay to the Department all costs incurred by the
14 Department in providing the notice. The person shall pay those
15 costs in accordance with the procedures established under this
16 subsection.

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

20 A. The Department of Corrections shall establish a risk
21 assessment review committee composed of at least five (5) members,
22 each of whom is a state employee whose service on the review
23 committee is in addition to the regular duties of the employee. The
24

1 review committee, to the extent feasible, should include the
2 following:

- 3 1. One member having experience in law enforcement;
- 4 2. One member having experience as a sex offender treatment
5 provider; and
- 6 3. One member having experience working with victims of sex
7 offenses.

8 B. The risk assessment review committee functions in an
9 oversight capacity. The committee shall:

- 10 1. Develop or select from among existing tools, a sex offender
11 screening tool to be used in determining the level of risk of a
12 person subject to registration pursuant to the provisions of the Sex
13 Offenders Registration Act;
- 14 2. Ensure that staff is trained on the use of the screening
15 tool;
- 16 3. Monitor the use of the screening tool in the state; and
- 17 4. Analyze other screening tools as they become available and
18 revise or replace the existing screening tool, if warranted.

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

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

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

9 3. Level three (high): a designated range of points on the sex
10 offender screening tool indicating that the person poses a serious
11 danger to the community and will continue to engage in criminal
12 sexual conduct.

13 D. The risk assessment review committee, the Department of
14 Corrections, or a court may override a risk level only if the
15 entity:

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

18 2. Documents the reason for the override in the case file of
19 the offender.

20 E. All records and files relating to a person for whom a court,
21 or the Department of Corrections is required under this act to
22 determine a level of risk, shall be released to the court or the
23 Department of Corrections as appropriate, for the purpose of
24 determining the risk level of the person.

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

3 SECTION 28. AMENDATORY 57 O.S. 2001, Section 583, as
4 last amended by Section 12, Chapter 294, O.S.L. 2006 (57 O.S. Supp.
5 2006, Section 583), is amended to read as follows:

6 Section 583. A. Any person who becomes subject to the
7 provisions of the Sex Offenders Registration Act on or after
8 November 1, 1989, shall ~~be registered~~ register, in person, as
9 follows:

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

18 2. With the local law enforcement authority having jurisdiction
19 in the area where the person resides or intends to reside for more
20 than seven (7) days. The registration is required within three (3)
21 days after entering the jurisdiction of the law enforcement
22 authority; and
23
24

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

4 For purposes of this section, "local law enforcement authority"
5 means:

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

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

13 c. the police or security department of any institution
14 of higher learning within this state if the person:
15 (1) enrolls as a full-time or part-time student,
16 (2) is a full-time or part-time employee at an
17 institution of higher learning, or
18 (3) resides or intends to reside or stay on any
19 property owned or controlled by the institution
20 of higher learning.

21 B. Any person who has been convicted of an offense or received
22 a deferred judgment for an offense in another jurisdiction, which
23 offense if committed or attempted in this state, would have been
24 punishable as one or more of the offenses listed in Section 582 of

1 this title and who enters this state on or after November 1, 1989,
2 shall ~~be registered~~ register, in person, as follows:

3 1. With the Department of Corrections when the person enters
4 and intends to be in the state for any purpose for five (5) days or
5 longer, has any type of full-time or part-time employment, with or
6 without compensation for more than five (5) days, or is enrolled as
7 a full-time or part-time student within this state. Such
8 registration is required within two (2) days after entering the
9 state;

10 2. With the local law enforcement authority having jurisdiction
11 in the area where the person intends to reside or to stay for more
12 than five (5) days, has any type of full-time or part-time
13 employment, with or without compensation for more than five (5)
14 days, or is enrolled as a full-time or part-time student within this
15 state. The registration is required with local law enforcement
16 within two (2) days after entering the jurisdiction of the law
17 enforcement authority;

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

22 4. For persons convicted of an offense or receiving a deferred
23 judgment in another jurisdiction requiring registration, which
24 offense if committed or attempted in this state, would have been

1 punishable as one or more of the offenses listed in Section 582 of
2 this title, shall maintain the registration for a period of ten (10)
3 years from the date the person was initially required to register in
4 Oklahoma, unless the person was convicted of a crime that would be
5 classified as an habitual or aggravated sex offender within the
6 State of Oklahoma, at which time registration shall continue at all
7 times.

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

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

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

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

22 D. When a person has been convicted or received probation
23 within the State of Oklahoma and the person is not classified as an
24 habitual or aggravated sex offender with a numeric risk level of

1 three, the person shall be required to register ~~for a period of ten~~
2 ~~(10) years~~ as follows:

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

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

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

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

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

23 1. Inform the offender of the duty to register and obtain the
24 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) days or an aggregate period
18 exceeding thirty (30) days in a calendar year, then the offender has
19 a duty to register as a sex offender in that state;

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

23 6. Inform the offender that if the offender enrolls in any
24 school within this state as a full-time or part-time student, then

1 the offender has a duty to register as a sex offender with the
2 Department of Corrections and the local law enforcement authority;

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

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

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

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

23 ~~G.~~ H. Any person who resides in another state and who has been
24 convicted of an offense or received a deferred judgment for an

1 offense in this state, or in another jurisdiction, which offense if
2 committed or attempted in this state would have been punishable as
3 one or more of the offenses listed in Section 582 of this title, and
4 who is the spouse of a person living in this state shall be
5 registered as follows:

6 1. With the Department of Corrections when the person enters
7 and intends to be in the state for any purpose for five (5) days or
8 longer or an aggregate period of five (5) days or longer in a
9 calendar year. Such registration is required within two (2) days
10 after entering the state; and

11 2. With the local law enforcement authority having jurisdiction
12 in the area where the person intends to reside or to stay within
13 this state for two (2) days or longer. The registration is required
14 with local law enforcement within two (2) days after entering the
15 jurisdiction of the law enforcement authority.

16 SECTION 29. AMENDATORY 57 O.S. 2001, Section 584, as
17 last amended by Section 9, Chapter 284, O.S.L. 2006 (57 O.S. Supp.
18 2006, Section 584), is amended to read as follows:

19 Section 584. A. Any registration with the Department of
20 Corrections required by the Sex Offenders Registration Act shall be
21 in a form approved by the Department and shall include the following
22 information about the person registering:

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

1 2. A complete description of the person, including a photograph
2 and fingerprints, and when requested by the Department of
3 Corrections, such registrant shall submit to a blood or saliva test
4 for purposes of a deoxyribonucleic acid (DNA) profile. Submission
5 to testing for individuals registering shall be within thirty (30)
6 days of registration. Registrants who already have valid samples on
7 file in the Oklahoma State Bureau of Investigation (OSBI) DNA
8 Offender Database shall not be required to submit duplicate samples
9 for testing;

10 3. The offenses listed in Section 582 of this title for which
11 the person has been convicted or the person received a suspended
12 sentence or any form of probation, where the offense was committed,
13 where the person was convicted or received the suspended sentence or
14 any form of probation, and the name under which the person was
15 convicted or received the suspended sentence or probation;

16 4. The name and location of each hospital or penal institution
17 to which the person was committed for each offense listed in Section
18 582 of this title;

19 5. Where the person previously resided, where the person
20 currently resides, how long the person has resided there, how long
21 the person expects to reside there, and how long the person expects
22 to remain in the county and in this state. The Department of
23 Corrections shall conduct address verification of each registered
24 sex offender as follows:

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

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

5 The Department of Corrections shall mail a nonforwardable
6 verification form to the lastreported address of the person. The
7 person shall return the verification form in person to the local law
8 enforcement ~~agency~~ authority of that jurisdiction within ten (10)
9 days after receipt of the form and may be photographed by the local
10 law enforcement ~~agency~~ authority at that time. The local law
11 enforcement authority shall require the person to produce proof of
12 the identity of the person and current address. Upon confirming the
13 information contained within the verification form, the local law
14 enforcement ~~agency~~ authority shall forward the form to the
15 Department of Corrections within three (3) days after receipt of the
16 form. The verification form shall be signed by the person and state
17 the current address of the person. Failure to return the
18 verification form shall be a violation of the Sex Offenders
19 Registration Act. If the offender has been determined to be a
20 habitual or aggravated sex offender by the Department of Corrections
21 and has been assigned a numeric risk level of three, the address
22 verification shall be conducted every ninety (90) days. The
23 Department of Corrections shall notify the ~~district attorney's~~
24 office of the district attorney and local law enforcement ~~agency~~

1 authority of the appropriate county, within forty-five (45) days if
2 unable to verify the address of a sex offender. A local law
3 enforcement ~~agency~~ authority may notify the ~~district attorney's~~
4 office of the district attorney whenever it comes to the attention
5 of the local law enforcement ~~agency~~ authority that a sex offender is
6 not in compliance with any provisions of this act. A local law
7 enforcement authority designated as the primary registration
8 authority of the person may, at any time, mail a nonforwardable
9 verification form to the last-reported address of the person. The
10 person shall return the verification form in person to the local law
11 enforcement authority that mailed the form within ten (10) days
12 after receipt of the form. The local law enforcement authority
13 shall require the person to produce proof of the identity of the
14 person and current address;

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

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

21 8. The numeric risk level of the person.

22 B. Conviction data and fingerprints shall be promptly
23 transmitted at the time of registration to the Oklahoma State Bureau
24 of Investigation (OSBI) and the Federal Bureau of Investigation

1 (FBI) if the state has not previously sent the information at the
2 time of conviction.

3 C. The registration with the local law enforcement authority
4 required by the Sex Offenders Registration Act shall be in a form
5 approved by the local law enforcement authority and shall include
6 the following information about the person registering:

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

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

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

14 4. The numeric risk level of the person.

15 For purposes of this section, "local law enforcement authority"
16 means:

17 a. the municipal police department, if the person resides
18 or intends to reside or stay within the jurisdiction
19 of any municipality of this state, or

20 b. the county sheriff, if the person resides or intends
21 to reside or stay at any place outside the
22 jurisdiction of any municipality within this state,

23 and
24

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

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

16 1. The Department of Corrections and the local law enforcement
17 authority shall notify the new local law enforcement authority by
18 teletype, electronic transmission, or letter of the change of
19 address;

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

22 3. The new local law enforcement authority shall notify the
23 most recent registering agency by teletype or letter of the change
24 in address of the offender. If the new address is in another state

1 the Department of Corrections shall promptly notify the agency
2 responsible for registration in that state of the new address of the
3 offender.

4 E. The Department of Corrections shall maintain a file of all
5 sex offender registrations. A copy of the information contained in
6 the registration shall promptly be available to state, county and
7 municipal law enforcement agencies, the State Superintendent of
8 Public Instruction, the Commissioner of Health, and the National Sex
9 Offender Registry maintained by the Federal Bureau of Investigation.
10 The file shall promptly be made available for public inspection or
11 copying pursuant to rules promulgated by the Department of
12 Corrections and may be made available through Internet access. The
13 Department of Corrections shall promptly provide all municipal
14 police departments, all county sheriff departments and all campus
15 police departments a list of those sex offenders registered and
16 living in their county.

17 F. The Superintendent of Public Instruction is authorized to
18 copy and shall distribute information from the sex offender registry
19 to school districts and individual public and private schools within
20 the state with a notice using the following or similar language: "A
21 person whose name appears on this registry has been convicted of a
22 sex offense. Continuing to employ a person whose name appears on
23 this registry may result in civil liability for the employer or
24

1 criminal prosecution pursuant to Section 589 of Title 57 of the
2 Oklahoma Statutes."

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

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

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

1 I. Samples of blood or saliva for DNA testing required by
2 subsection A of this section shall be taken by employees or
3 contractors of the Department of Corrections. Said individuals
4 shall be properly trained to collect blood or saliva samples.
5 Persons collecting samples for DNA testing pursuant to this section
6 shall be immune from civil liabilities arising from this activity.
7 The Department of Corrections shall ensure the collection of samples
8 is mailed to the Oklahoma State Bureau of Investigation (OSBI)
9 within ten (10) days of the time the subject appears for testing.
10 The Department shall use sample kits provided by the OSBI and
11 procedures promulgated by the OSBI. Persons subject to DNA testing
12 pursuant to this section shall be required to pay to the Department
13 of Corrections a fee of Fifteen Dollars (\$15.00). Any fees
14 collected pursuant to this subsection shall be deposited in the
15 Department of Corrections revolving account.

16 J. 1. Any person who has been convicted of or received a
17 suspended sentence or any probationary term, including a deferred
18 sentence imposed in violation of subsection G of Section 991c of
19 Title 22 of the Oklahoma Statutes, for any crime listed in Section
20 582 of this title and:

21 a. who is subsequently convicted of a crime or an attempt
22 to commit a crime listed in subsection A of Section
23 582 of this title, or
24

1 b. who enters this state after November 1, 1997, and who
2 has been convicted of an additional crime or attempted
3 crime which, if committed or attempted in this state,
4 would be a crime or an attempt to commit a crime
5 provided for in subsection A of Section 582 of this
6 title,

7 shall be subject to all of the registration requirements of this act
8 and shall be designated by the Department of Corrections as a
9 habitual sex offender. A habitual sex offender shall be required to
10 register for the lifetime of the habitual sex offender.

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

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

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

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

- 19 a. the name and physical address of the habitual or
20 aggravated sex offender,
- 21 b. a physical description of the habitual or aggravated
22 sex offender, including, but not limited to, age,
23 height, weight and eye and hair color,

- c. a description of the vehicle that the habitual or aggravated sex offender is known to drive,
- d. any conditions or restrictions upon the probation, parole or conditional release of the habitual or aggravated sex offender,
- e. a description of the primary and secondary targets of the habitual or aggravated sex offender,
- f. a description of the method of offense of the habitual or aggravated sex offender,
- g. a current photograph of the habitual or aggravated sex offender, ~~and~~
- h. the name and telephone number of the probation or parole officer of the habitual or aggravated sex offender; and
- i. the numeric risk level of the person.

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

K. If the probation and parole officer supervising a person subject to registration receives information to the effect that the status of the person has changed in any manner that affects proper supervision of the person including, but not limited to, a change in the physical health of the person, address, employment, or educational status, higher educational status, incarceration, or

1 terms of release, the supervising officer or administrator shall
2 notify the appropriate local law enforcement authority or
3 authorities of that change.

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

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

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

17 SECTION 30. AMENDATORY Section 1, Chapter 223, O.S.L.
18 2003, as amended by Section 13, Chapter 294, O.S.L. 2006 (57 O.S.
19 Supp. 2006, Section 590), is amended to read as follows:

20 Section 590. It is unlawful for any person registered pursuant
21 to the Sex Offenders Registration Act to reside, either temporarily
22 or permanently, within a two-thousand-foot radius of any public or
23 private school site, educational institution, a playground, or park,
24 that is zoned by city, county, state, federal or tribal government,

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

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

1 (\$3,000.00), or by imprisonment in the custody of the Department of
2 Corrections for a term of not less than three (3) years, or by both
3 such fine and imprisonment.

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

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

19 The Legislature further finds that the likelihood of a sexually
20 violent predator engaging in repeat acts of predatory sexual
21 violence is high. The existing involuntary commitment procedure for
22 mentally ill persons pursuant to Title 43A of the Oklahoma Statutes
23 is inadequate to address the risk these sexually violent predators
24 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;

23 4. "Mental abnormality" means a congenital or acquired
24 condition affecting the emotional or volitional capacity which

1 predisposes the person to commit sexually violent offenses in a
2 degree constituting such person a menace to the health and safety of
3 others;

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

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

9 7. "Sexually violent offense" means:

- 10 a. rape, pursuant to Section 1114 of Title 21 of the
11 Oklahoma Statutes,
- 12 b. rape by instrumentation, pursuant to Section 1111.1 of
13 Title 21 of the Oklahoma Statutes,
- 14 c. lewd, indecent proposals or acts against a child under
15 sixteen (16), pursuant to Section 1123 of Title 21 of
16 the Oklahoma Statutes,
- 17 d. incest, pursuant to Section 885 of Title 21 of the
18 Oklahoma Statutes,
- 19 e. forcible sodomy, pursuant to Section 888 of Title 21
20 of the Oklahoma Statutes,
- 21 f. any conviction for a felony offense in effect at any
22 time prior to the effective date of this act that is
23 comparable to a sexually violent offense as defined in
24 subparagraphs a through e of this paragraph or any

1 federal or other state conviction for a felony offense
2 that under the laws of this state would be a sexually
3 violent offense as defined in this paragraph,

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

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

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

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

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

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

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

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

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

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

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

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

20 2. Documentation of institutional adjustment and any treatment
21 received.

22 C. The agency with jurisdiction, its employees, officials and
23 individuals contracting, appointed or volunteering to perform
24

1 services hereunder shall be immune from liability for any good-faith
2 conduct under this section.

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

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

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

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

24

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

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

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

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

- 13 1. To be represented by counsel and, if indigent, the court
14 shall appoint counsel to assist the person;
- 15 2. To be allowed to present evidence on his or her behalf;
- 16 3. To be provided the opportunity to cross-examine witnesses
17 who present testimony against such person; and
- 18 4. To be given access to and a copy of all petitions and
19 reports in the court file.

20 E. If, at the conclusion of the hearing, a probable cause
21 determination is made, the court shall direct that the person be
22 transferred to an appropriate facility for an evaluation as to
23 whether the person is a sexually violent predator. The evaluation
24

1 shall be conducted by a person deemed to be professionally qualified
2 to conduct such an examination.

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

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

23 B. The person, the district attorney or the Attorney General
24 shall have the right to demand that the trial be before a jury.

1 Such demand for the trial to be before a jury shall be filed, in
2 writing, at least four (4) days prior to trial. The jury shall be
3 composed of six (6) persons having the qualifications of jurors in
4 courts of record. If no demand is made, the trial shall be before
5 the court.

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

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

20 B. At all times, persons committed for control, care and
21 treatment by the Department of Corrections pursuant to this act
22 shall be kept in a secure facility and such persons shall be
23 segregated at all times from any other person under the custody of
24 the Department of Corrections.

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

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

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

- 19 1. Whether the person did commit the act or acts charged;
- 20 2. The extent to which the incompetence or developmental
21 disability of the person affected the outcome of the hearing,
22 including its effect on the ability of the person to consult with
23 and assist counsel and to testify on his or her own behalf;

24

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

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

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

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

13 A. Each person committed under this act shall have a current
14 examination of the mental condition of the person made once every
15 year. The person may retain or, if the person is indigent and so
16 requests, the court may appoint a qualified professional person to
17 examine the person, and such expert or professional person shall
18 have access to all records concerning the person. The yearly report
19 shall be provided to the court that committed the person under this
20 act. The court shall conduct an annual review of the status of the
21 committed person. Nothing contained in this act shall prohibit the
22 person from otherwise petitioning the court for discharge at this
23 hearing. The Director of the Department of Corrections shall
24 provide the committed person with an annual written notice of the

1 right of the person to petition the court for release over the
2 objection of the Director. The notice shall contain a waiver of
3 rights. The Director shall forward the notice and waiver form to
4 the court with the annual report. The committed person shall have a
5 right to have an attorney represent the person at the hearing.

6 B. If the court, at the hearing, determines that probable cause
7 exists to believe that the mental abnormality or personality
8 disorder of the person has so changed that the person is safe to be
9 in transitional release, then the court shall set a hearing on the
10 issue. At the hearing, the committed person shall be entitled to be
11 present and entitled to the benefit of all constitutional
12 protections that were afforded the person at the initial commitment
13 proceeding. The district attorney or the Attorney General, if
14 requested by the district attorney, shall represent the state and
15 shall have a right to a jury trial and to have the committed person
16 evaluated by experts chosen by the state. The committed person
17 shall also have the right to have experts evaluate the person on his
18 or her behalf, and the court shall appoint an expert if the person
19 is indigent and requests an appointment. The burden of proof at the
20 hearing shall be upon the state to prove beyond a reasonable doubt
21 that the mental abnormality or personality disorder of the committed
22 person remains such that the person is not safe to be placed in
23 transitional release, and if transitionally released, is likely to
24 engage in acts of sexual violence.

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

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

14 E. At any time during which the person is in the transitional
15 release program and the treatment staff determines that the person
16 has violated any rule, regulation or directive associated with the
17 transitional release program, the treatment staff may remove the
18 person from the transitional release program and return the person
19 to the secure commitment facility, or may request the district court
20 to issue an emergency ex parte order directing any law enforcement
21 officer to take the person into custody and return the person to the
22 secure commitment facility. Any such request may be made verbally
23 or by telephone, but shall be followed in written or facsimile form
24 delivered to the court by not later than 5:00 p.m. of the first day

1 the district court is open for the transaction of business after the
2 verbal or telephonic request was made.

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

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

21 A. If the Director of the Department of Corrections determines
22 that the mental abnormality or personality disorder of a person has
23 so changed that the person is not likely to engage in repeat acts of
24 sexual violence if placed in transitional release, the Director

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

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

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

24

1 A. During any period the person is in transitional release, the
2 person, at least once every year and at any other time deemed
3 appropriate by the treatment staff, shall be examined by the
4 treatment staff to determine if the mental abnormality or
5 personality disorder of the person has so changed as to warrant such
6 person being considered for conditional release. The treatment
7 staff shall forward a report of the examination to the court. The
8 court shall review the report of the examination. If the court
9 determines that probable cause exists to believe that the mental
10 abnormality or personality disorder of the person has so changed
11 that the person is safe to be placed in conditional release, the
12 court shall then set a hearing on the issue. The burden of proof at
13 the hearing shall be upon the state to prove beyond a reasonable
14 doubt that the mental abnormality or personality disorder of the
15 person remains such that the person is not safe to be at large and
16 that if placed on conditional release is likely to engage in repeat
17 acts of sexual violence. At the hearing, the person shall be
18 entitled to be present and entitled to the benefit of all
19 constitutional protections that were afforded the person at the
20 initial commitment proceeding. Subsequent to either a court review
21 or a hearing, the court shall issue an appropriate order with
22 findings of fact. The order of the court shall be provided to the
23 district attorney or the Attorney General, the person, and the
24 Director of the Department of Corrections.

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

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

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

- 14 1. Determining where the person shall reside and with whom;
- 15 2. Taking prescribed medications;
- 16 3. Attending individual and group counseling;
- 17 4. Maintaining employment;
- 18 5. Having no contact with children;
- 19 6. Not frequenting facilities, locations or events in which

20 children are likely to be present; and

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

23

24

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

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

24

1 provided to the district attorney or the Attorney General, the
2 person and the Director of the Department of Corrections.

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

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

23 E. Upon the person being returned to a secure commitment
24 facility from conditional release, notice shall be given by the

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

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

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

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

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

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

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

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

1 frivolous grounds and, if so, shall deny the petition without a
2 hearing.

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

6 The Director of the Department of Corrections shall be
7 responsible for providing all treatment services and all costs
8 relating to the evaluation and treatment of persons committed to the
9 custody of the Director under any provision of this act.

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

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

15 In addition to any other information required to be released
16 under this act and prior to the release of a person committed under
17 this act, the Director of the Department of Corrections shall give
18 written notice of such release to any victim of the crime for which
19 the person was convicted who is alive and whose address is known to
20 the Director or, if the victim is deceased, to the family of the
21 victim, if the address of the family is known to the Director.

22 Failure to notify shall not be a reason for postponement of release.

23 Nothing in this section shall create a cause of action against the
24 state or an employee of the state acting within the scope of

1 employment as a result of the failure to notify as required in this
2 section.

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

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

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

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

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

23 A. The district attorney shall file a special allegation of
24 sexual motivation within ten (10) days after arraignment in every

1 criminal case other than sex offenses as listed in paragraph 7 of
2 Section 32 of this act and amendments thereto, when sufficient
3 admissible evidence exists, which, when considered with the most
4 plausible, reasonably foreseeable defense that could be raised under
5 the evidence, would justify a finding of sexual motivation by a
6 reasonable and objective fact finder.

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

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

24

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.

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