

1 STATE OF OKLAHOMA

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

3 SENATE BILL 913

By: Lerblance

4
5
6 AS INTRODUCED

7 An Act relating to sentencing; amending Section 1,
8 Chapter 209, O.S.L. 2003, as amended by Section 3,
9 Chapter 284, O.S.L. 2006 (21 O.S. Supp. 2006, Section
10 1125), which relates to zone of safety; modifying
11 definition; prohibiting loitering in certain area;
12 amending 22 O.S. 2001, Section 991b, as last amended
13 by Section 1, Chapter 374, O.S.L. 2005 (22 O.S. 2001,
14 Section 991b), which relates to suspended sentence;
15 limiting length of imprisonment for certain
16 violation; amending 57 O.S. 2001, Sections 38, as
17 amended by Section 8, Chapter 74, 2nd Extraordinary
18 Session, O.S.L. 2006, and 590, as last amended by
19 Section 13, Chapter 294, O.S.L. 2006 (57 O.S. Supp.
20 2006, Sections 38 and 590), which relate to jail
21 reimbursement rate and residency restriction;
22 modifying rate of certain reimbursement; modifying
23 certain residency requirement; requiring certain
24 registration at specified intervals; establishing
classifications for certain offenders; specifying
duration of certain registration; amending 63 O.S.
2001, Sections 2-402, as amended by Section 3,
Chapter 396, O.S.L. 2004, and 2-415, as last amended
by Section 9, Chapter 396, O.S.L. 2004 (63 O.S. Supp.
2006, Sections 2-402 and 2-415), which relate to
prohibited acts and fines and penalties; modifying
term of certain imprisonment; deleting certain
sentencing requirement; requiring certain studies;
providing for codification; providing for
noncodification; and providing an effective date.

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

1 SECTION 1. AMENDATORY Section 1, Chapter 209, O.S.L.
2 2003, as amended by Section 3, Chapter 284, O.S.L. 2006 (21 O.S.
3 Supp. 2006, Section 1125), is amended to read as follows:

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

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

1 Department of Corrections for a term of not less than three (3)
2 years, or by both such fine and imprisonment. This proscription of
3 conduct shall not modify or remove any restrictions currently
4 applicable to the person by court order, conditions of probation or
5 as provided by other provision of law.

6 C. 1. A person shall be exempt from the prohibition of this
7 section regarding a school or a licensed child care ~~facility~~ center
8 only under the following circumstances:

9 a. the person is the custodial parent or legal guardian
10 of a child who is an enrolled student at the school or
11 child care ~~facility~~ center, and

12 b. the person is enrolling, delivering or retrieving such
13 child at the school or child care ~~facility~~ center
14 during regular school or ~~facility~~ center hours or for
15 school-sanctioned or child-care-~~facility~~ center-
16 sanctioned extracurricular activities, or

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

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

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

6 SECTION 2. AMENDATORY 22 O.S. 2001, Section 991b, as
7 last amended by Section 1, Chapter 374, O.S.L. 2005 (22 O.S. Supp.
8 2006, Section 991b), is amended to read as follows:

9 Section 991b. A. Whenever a sentence has been suspended by the
10 court after conviction of a person for any crime, the suspended
11 sentence of the person may not be revoked, in whole or part, for any
12 cause unless a petition setting forth the grounds for such
13 revocation is filed by the district attorney with the clerk of the
14 sentencing court and competent evidence justifying the revocation of
15 the suspended sentence is presented to the court at a hearing to be
16 held for that purpose within twenty (20) days after the entry of the
17 plea of not guilty to the petition, unless waived by both the state
18 and the defendant. The State of Oklahoma may dismiss the petition
19 without prejudice one time upon good cause shown to the court,
20 provided that any successor petition must be filed within forty-five
21 (45) days of the date of the dismissal of the petition.

22 B. 1. The Department of Corrections shall develop a matrix of
23 technical violations and sanctions to address the violations. The
24 Department shall be authorized to use a violation response and

1 intermediate sanction process based on the sanction matrix to apply
2 to any technical violations of probationers. Within four (4)
3 working days of the discovery of the violation, the officer shall
4 initiate the violation response and intermediate sanction process.
5 The sentencing judge may authorize any recommended sanctions, which
6 may include, but are not limited to: short-term jail or lockup, day
7 treatment, program attendance, community service, outpatient or
8 inpatient treatment, monetary fines, curfews, or ignition interlock
9 devices on vehicles. The officer shall complete a sanction form,
10 which shall specify the technical violation, sanction, and the
11 action plan to correct the noncompliant behavior resulting in the
12 technical violation. The officer shall refer to the sanctioning
13 matrix to determine the supervision, treatment, and sanctions
14 appropriate to address the noncompliant behavior. The officer shall
15 refer the violation information and recommended response with a
16 sanction plan to the Department of Corrections to be heard by a
17 hearing officer. The Department of Corrections shall develop a
18 sanction matrix, forms, policies and procedures necessary to
19 implement this provision. The Department of Corrections shall
20 establish procedures to hear responses to technical violations and
21 review sanction plans including the following:

- 22 a. hearing officers shall report through a chain of
23 command separate from that of the supervising
24 probation officers,

- 1 b. the Department shall provide the offender written
2 notice of the violation, the evidence relied upon, and
3 the reason the sanction was imposed,
4 c. the hearing shall be held unless the offender waives
5 the right to the hearing,
6 d. hearings shall be electronically recorded, and
7 e. the Department shall make available to judges and
8 district attorneys a record of all actions taken
9 pursuant to this subsection.

10 2. The hearing officer shall determine based on a preponderance
11 of the evidence whether a technical violation occurred. Upon a
12 finding that a technical violation occurred, the hearing officer may
13 order the offender to participate in the recommended sanction plan
14 or may modify the plan. Offenders who accept the sanction plan
15 shall sign a violation response sanction form, and the hearing
16 officer shall then impose the sanction. Failure of the offender to
17 comply with the imposed sanction plan shall constitute a violation
18 of the rules and conditions of supervision that may result in a
19 revocation proceeding. If an offender does not voluntarily accept
20 the recommended sanction plan, the Department shall either impose
21 the sanction and allow the offender to appeal to the district court,
22 or request a revocation proceeding as provided by law. Every
23 administrative hearing and sanction imposed by the Department shall
24 be appealable to the district court.

1 C. 1. Where one of the grounds for revocation is the failure
2 of the defendant to make restitution as ordered, the Department of
3 Corrections shall forward to the district attorney all information
4 pertaining to the failure of the defendant to make timely
5 restitution as ordered by the court, and the district attorney shall
6 file a petition setting forth the grounds for revocation.

7 2. The defendant ordered to make restitution can petition the
8 court at any time for remission or a change in the terms of the
9 order of restitution if the defendant undergoes a change of
10 condition which materially affects the ability of the defendant to
11 comply with the order of the court.

12 3. At the hearing, if one of the grounds for the petition for
13 revocation is the failure of the defendant to make timely
14 restitution as ordered by the court, the court will hear evidence
15 and if it appears to the satisfaction of the court from such
16 evidence that the terms of the order of restitution create a
17 manifest hardship on the defendant or the immediate family of the
18 defendant, the court may cancel all or any part of the amount still
19 due, or modify the terms or method of payment.

20 D. The court may revoke a portion of the sentence and leave the
21 remaining part not revoked, but suspended for the remainder of the
22 term of the sentence, and under the provisions applying to it,
23 except that the maximum length of imprisonment for a person whose
24 sentence is being revoked for a technical violation of the terms of

1 probation shall not exceed two (2) years. The person whose
2 suspended sentence is being considered for revocation at the hearing
3 shall have the right to be represented by counsel, to present
4 competent evidence in his or her own behalf and to be confronted by
5 the witnesses against the defendant. Any order of the court
6 revoking the suspended sentence, in whole or in part, shall be
7 subject to review on appeal, as in other appeals of criminal cases.
8 Provided, however, that if the crime for which the suspended
9 sentence is given was a felony, the defendant may be allowed bail
10 pending appeal. If the reason for revocation be that the defendant
11 committed a felony, the defendant shall not be allowed bail pending
12 appeal.

13 SECTION 3. AMENDATORY 57 O.S. 2001, Section 38, as
14 amended by Section 8, Chapter 74, 2nd Extraordinary Session, O.S.L.
15 2006 (57 O.S. Supp. 2006, Section 38), is amended to read as
16 follows:

17 Section 38. Until January 1, 2007, the Department of
18 Corrections shall reimburse any county, which is required to retain
19 an inmate pursuant to paragraph 2 of Section 37 of this title, in an
20 amount not to exceed Twenty-four Dollars (\$24.00) per day for each
21 inmate during such period of retention not to exceed forty-five (45)
22 days. The rate of reimbursement for any inmate sentenced to prison
23 who remains in the county jail for more than forty-five (45) days
24 shall be the amount of actual cost. The proceeds of this

1 reimbursement shall be used to defray expenses of equipping and
2 maintaining the jail and payment of personnel. The Department of
3 Corrections shall reimburse the county for the emergency medical
4 care for physical injury or illness of the inmate retained under
5 this act if the injury or illness is directly related to the
6 incarceration and the county is required by law to provide such care
7 for inmates in the jail. The Department shall not pay fees for
8 medical care in excess of the rates established for Medicaid
9 providers. The state shall not be liable for medical charges in
10 excess of the Medicaid scheduled rate. The Director may accept any
11 inmate required to have extended medical care upon application of
12 the county. Effective January 1, 2007, the Department of
13 Corrections shall reimburse any county, which is required to retain
14 an inmate pursuant to paragraph 2 of Section 37 of this title, in an
15 amount not to exceed Twenty-seven Dollars (\$27.00) per day for each
16 inmate during such period of retention. The proceeds of this
17 reimbursement shall be used to defray expenses of equipping and
18 maintaining the jail and payment of personnel. The Department of
19 Corrections shall reimburse the county for the emergency medical
20 care for physical injury or illness of the inmate retained under
21 this act if the injury or illness is directly related to the
22 incarceration and the county is required by law to provide such care
23 for inmates in the jail. The Department shall not pay fees for
24 medical care in excess of the rates established for Medicaid

1 providers. The state shall not be liable for medical charges in
2 excess of the Medicaid scheduled rate. The Director may accept any
3 inmate required to have extended medical care upon application of
4 the county.

5 SECTION 4. AMENDATORY 57 O.S. 2001, Section 590, as last
6 amended by Section 13, Chapter 294, O.S.L. 2006 (57 O.S. Supp. 2006,
7 Section 590), is amended to read as follows:

8 Section 590. It is unlawful for any person registered pursuant
9 to the Sex Offenders Registration Act to reside, either temporarily
10 or permanently, within a two-thousand-foot radius of any public or
11 private school site, educational institution, a playground, or park
12 that is zoned by city, county, state, federal or tribal government,
13 or licensed child care ~~facility~~ center as defined by the Department
14 of Human Services. Establishment of a child care center or park in
15 the vicinity of a registered sex offender's residence shall not
16 require the relocation of such offender or the sale of the property.

17 On the effective date of this act, the distance indicated in this
18 section shall be measured from the nearest property line of the
19 residence of the person to the nearest property line of the public
20 or private school site, educational institution, playground, park,
21 or licensed child care ~~facility~~ center; provided, any nonprofit
22 organization established and housing sex offenders prior to the
23 effective date of this provision shall be allowed to continue its
24 operation.

1 Nothing in this provision shall require any person to sell or
2 otherwise dispose of any real estate or home acquired or owned prior
3 to the conviction of the person as a sex offender. Any person
4 willfully violating the provisions of this section by intentionally
5 moving into any neighborhood or to any real estate or home within
6 the prohibited distance shall, upon conviction, be guilty of a
7 felony punishable by a fine not to exceed Three Thousand Dollars
8 (\$3,000.00), or by imprisonment in the custody of the Department of
9 Corrections for a term of not less than one (1) year nor more than
10 three (3) years, or by both such fine and imprisonment. Any person
11 convicted of a second or subsequent violation of this section shall
12 be punished by a fine not to exceed Three Thousand Dollars
13 (\$3,000.00), or by imprisonment in the custody of the Department of
14 Corrections for a term of not less than three (3) years, or by both
15 such fine and imprisonment.

16 SECTION 5. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 590.2 of Title 57, unless there
18 is created a duplication in numbering, reads as follows:

19 A. Title III Offenders shall register every three (3) months
20 for life. An offender is assigned to Tier III upon conviction of
21 any of the following offenses:

22 1. Section 7115 of Title 10 of the Oklahoma Statutes, abuse or
23 neglect of child or child beating, when sexual abuse or sexual
24 exploitation is involved;

- 1 2. Section 885 of Title 21 of the Oklahoma Statutes, incest;
- 2 3. Section 888 of Title 21 of the Oklahoma Statutes, forcible
- 3 sodomy;
- 4 4. Section 1114 of Title 21 of the Oklahoma Statutes, rape in
- 5 the first degree or rape by instrumentation;
- 6 5. Section 1123 of Title 21 of the Oklahoma Statutes, lewd or
- 7 indecent proposals or acts to a child under sixteen (16) years of
- 8 age or sexual battery to a person over sixteen (16) years of age;
- 9 6. Section 74 of Title 21 of the Oklahoma Statutes, kidnapping,
- 10 if the offense involved sexual abuse or sexual exploitation; or
- 11 7. Upon any conviction of a sex offense that occurs after a
- 12 Tier II conviction or convictions.

13 The registration period for a Tier III offender registered on
14 the basis of a juvenile adjudication, may be reduced to twenty-five
15 (25) years if the offender is not subsequently convicted of any
16 felony or sex offense and has successfully completed any periods of
17 supervised release, probation or parole and an appropriate sex
18 offender treatment program.

19 B. Tier II Offenders shall register every six (6) months for
20 twenty-five (25) years.

21 An offender is assigned to Tier II upon conviction of any of the
22 following offenses:

- 23 1. Section 865 of Title 21 of the Oklahoma Statutes,
- 24 trafficking in children;

1 2. Section 891 of Title 21 of the Oklahoma Statutes, child
2 stealing;

3 3. Section 1021 of Title 21 of the Oklahoma Statutes, obscene
4 or indecent writings or pictures or solicitation of minors in any
5 crime under this section;

6 4. Section 1021.2 of Title 21 of the Oklahoma Statutes, to
7 procure or cause minors to participate in obscene or indecent
8 writings or pictures;

9 5. Section 1021.3 of Title 21 of the Oklahoma Statutes,
10 guardian's, parent's, custodian's consent to participation of minor
11 in obscene writings or pictures;

12 6. Section 1040.13a of Title 21 of the Oklahoma Statutes,
13 facilitating, encouraging, offering or soliciting sexual conduct
14 with a minor, misdemeanor;

15 7. Section 1087 of Title 21 of the Oklahoma Statutes, procuring
16 a child under eighteen (18) years of age for prostitution with a
17 child under eighteen (18) years of age; or

18 8. Section 1088 of Title 21 of the Oklahoma Statutes, inducing,
19 keeping, detaining or restraining for prostitution a child under
20 eighteen (18) years of age; or

21 9. Upon any conviction of a sex offense that occurs after a
22 prior sex offense conviction.

23 C. Tier I Offender shall register once a year for fifteen (15)
24 years.

1 An offender is assigned to Tier I upon conviction of any of the
2 following offenses:

3 1. Section 681 of Title 21 of the Oklahoma Statutes, assault
4 with intent to commit a felony, if the offense involved sexual
5 assault;

6 2. Section 843.1 of Title 21 of the Oklahoma Statutes,
7 caretaker abuse or neglect, when sexual abuse or sexual exploitation
8 is involved;

9 3. Section 886 of Title 21 of the Oklahoma Statutes, crime
10 against nature, sodomy;

11 4. Section 1021 of Title 21 of the Oklahoma Statutes, indecent
12 exposure or indecent exhibitions;

13 5. Section 1040.51 of Title 21 of the Oklahoma Statutes,
14 unlawful sale, purchase or trafficking of obscene movies,
15 photographs, pictures, drawings or video games; or

16 6. Section 1116 of Title 21 of the Oklahoma Statutes, rape in
17 the second degree.

18 The registration period for a Tier I offender could be reduced
19 to ten (10) years if the offender is not subsequently convicted of
20 any felony or sex offense and has successfully completed any periods
21 of supervised release, probation or parole and an appropriate sex
22 offender treatment program.

23 D. Juvenile Adjudications:
24

1 Convictions include juvenile adjudications if the offender is
2 fourteen (14) years of age or older at the time of the offense and
3 the adjudication is for any of the following offenses:

4 1. Section 7115 of Title 10 of the Oklahoma Statutes, abuse or
5 neglect of child or child beating, when sexual abuse or sexual
6 exploitation is involved;

7 2. Section 885 of Title 21 of the Oklahoma Statutes, incest;

8 3. Section 1114 of Title 21 of the Oklahoma Statutes, rape in
9 the first degree or rape by instrumentation;

10 4. Section 1123 of Title 21 of the Oklahoma Statutes, lewd or
11 indecent proposals or acts to a child under sixteen (16) years of
12 age or sexual battery to a person over sixteen (16) years of age; or

13 5. Section 741 of Title 21 of the Oklahoma Statutes,
14 kidnapping, if the offense involved sexual abuse or sexual
15 exploitation.

16 SECTION 6. AMENDATORY 63 O.S. 2001, Section 2-402, as
17 amended by Section 3, Chapter 396, O.S.L. 2004 (63 O.S. Supp. 2006,
18 Section 2-402), is amended to read as follows:

19 Section 2-402. A. 1. It shall be unlawful for any person
20 knowingly or intentionally to possess a controlled dangerous
21 substance unless such substance was obtained directly, or pursuant
22 to a valid prescription or order from a practitioner, while acting
23 in the course of his or her professional practice, or except as
24 otherwise authorized by this act.

1 2. It shall be unlawful for any person to purchase any
2 preparation excepted from the provisions of the Uniform Controlled
3 Dangerous Substances Act, Section 2-101 et seq. of this title,
4 pursuant to Section 2-313 of this title in an amount or within a
5 time interval other than that permitted by Section 2-313 of this
6 title.

7 3. It shall be unlawful for any person or business to sell,
8 market, advertise or label any product containing ephedrine, its
9 salts, optical isomers, or salts of optical isomers, for the
10 indication of stimulation, mental alertness, weight loss, appetite
11 control, muscle development, energy or other indication which is not
12 approved by the pertinent federal OTC Final Monograph, Tentative
13 Final Monograph, or FDA-approved new drug application or its legal
14 equivalent. In determining compliance with this requirement, the
15 following factors shall be considered:

- 16 a. the packaging of the product,
- 17 b. the name of the product, and
- 18 c. the distribution and promotion of the product,
19 including verbal representations made at the point of
20 sale.

21 B. Any person who violates this section with respect to:

- 22 1. Any Schedule I or II substance, except marihuana or a
23 substance included in subsection D of Section 2-206 of this title,
24 is guilty of a felony punishable by imprisonment for not less than

1 ~~two (2) years~~ twenty-four (24) months nor more than ~~ten (10) years~~
2 one hundred eight (108) months. A second or subsequent violation of
3 this section with respect to Schedule I or II substance, except
4 marihuana or a substance included in subsection D of Section 2-206
5 of this title, is a felony punishable by imprisonment for not less
6 than four (4) years nor more than twenty (20) years; or

7 2. Any Schedule III, IV or V substance, marihuana, a substance
8 included in subsection D of Section 2-206 of this title, or any
9 preparation excepted from the provisions of the Uniform Controlled
10 Dangerous Substances Act is guilty of a misdemeanor punishable by
11 confinement for not more than one (1) year. A second or subsequent
12 violation of this section with respect to any Schedule III, IV or V
13 substance, marihuana, a substance included in subsection D of
14 Section 2-206 of this title, or any preparation excepted from the
15 provisions of the Uniform Controlled Dangerous Substances Act is a
16 felony punishable by imprisonment for not less than two (2) years
17 nor more than ten (10) years.

18 C. Any person who violates any provision of this section by
19 possessing or purchasing a controlled dangerous substance from any
20 person, in or on, or within one thousand (1,000) feet of the real
21 property comprising a public or private elementary or secondary
22 school, public vocational school, public or private college or
23 university, or other institution of higher education, recreation
24 center or public park, including state parks and recreation areas,

1 or in the presence of any child under twelve (12) years of age,
2 shall be guilty of a felony and punished by:

3 1. For a first offense, a term of imprisonment, or by the
4 imposition of a fine, or by both, not exceeding twice that
5 authorized by the appropriate provision of this section. In
6 addition, the person shall serve a minimum of fifty percent (50%) of
7 the sentence received prior to becoming eligible for state
8 correctional institution earned credits toward the completion of
9 said sentence; or

10 2. For a second or subsequent offense, a term of imprisonment
11 not exceeding three times that authorized by the appropriate
12 provision of this section and the person shall serve a minimum of
13 ninety percent (90%) of the sentence received prior to becoming
14 eligible for state correctional institution earned credits toward
15 the completion of said sentence.

16 D. Any person convicted of any offense described in this
17 section shall, in addition to any fine imposed, pay a special
18 assessment trauma-care fee of One Hundred Dollars (\$100.00) to be
19 deposited into the Trauma Care Assistance Revolving Fund created in
20 Section ~~1-2522~~ 1-2530.9 of this title.

21 SECTION 7. AMENDATORY 63 O.S. 2001, Section 2-415, as
22 last amended by Section 9, Chapter 396, O.S.L. 2004 (63 O.S. Supp.
23 2006, Section 2-415), is amended to read as follows:

24

1 Section 2-415. A. The provisions of the Trafficking in Illegal
2 Drugs Act shall apply to persons convicted of violations with
3 respect to the following substances:

- 4 1. Marihuana;
- 5 2. Cocaine or coca leaves;
- 6 3. Heroin;
- 7 4. Amphetamine or methamphetamine;
- 8 5. Lysergic acid diethylamide (LSD);
- 9 6. Phencyclidine (PCP);
- 10 7. Cocaine base, commonly known as "crack" or "rock"; or
- 11 8. 3,4-Methylenedioxy methamphetamine, commonly known as
12 "ecstasy" or MDMA.

13 B. Except as otherwise authorized by the Uniform Controlled
14 Dangerous Substances Act, it shall be unlawful for any person to:

15 1. Knowingly distribute, manufacture, bring into this state or
16 possess a controlled substance specified in subsection A of this
17 section in the quantities specified in subsection C of this section;

18 ~~or~~

19 2. Possess any controlled substance with the intent to
20 manufacture a controlled substance specified in subsection A of this
21 section in quantities specified in subsection C of this section; or

22 3. Use or solicit the use of services of a person less than
23 eighteen (18) years of age to distribute or manufacture a controlled
24

1 dangerous substance specified in subsection A of this section in
2 quantities specified in subsection C of this section.

3 Violation of this section shall be known as "trafficking in
4 illegal drugs".

5 Any person who commits the conduct described in paragraph 1, 2
6 or 3 of this subsection and represents the quantity of the
7 controlled substance to be an amount described in subsection C of
8 this section shall be punished under the provisions appropriate for
9 the amount of controlled substance represented, regardless of the
10 actual amount.

11 C. In the case of a violation of the provisions of subsection B
12 of this section, involving:

13 1. Marihuana:

14 a. twenty-five (25) pounds or more of a mixture or
15 substance containing a detectable amount of marihuana,
16 such violation shall be punishable by a fine of not
17 less than Twenty-five Thousand Dollars (\$25,000.00)
18 and not more than One Hundred Thousand Dollars
19 (\$100,000.00), or

20 b. one thousand (1,000) pounds or more of a mixture or
21 substance containing a detectable amount of marihuana,
22 such violation shall be punishable by a fine of not
23 less than One Hundred Thousand Dollars (\$100,000.00)

24

1 and not more than Five Hundred Thousand Dollars
2 (\$500,000.00);

3 2. Cocaine or coca leaves:

4 a. twenty-eight (28) grams or more of a mixture or
5 substance containing a detectable amount of cocaine or
6 coca leaves, such violation shall be punishable by a
7 fine of not less than Twenty-five Thousand Dollars
8 (\$25,000.00) and not more than One Hundred Thousand
9 Dollars (\$100,000.00), or

10 b. three hundred (300) grams or more of a mixture or
11 substance containing a detectable amount of cocaine or
12 coca leaves, such violation shall be punishable by a
13 fine of not less than One Hundred Thousand Dollars
14 (\$100,000.00) and not more than Five Hundred Thousand
15 Dollars (\$500,000.00);

16 3. Heroin:

17 a. ten (10) grams or more of a mixture or substance
18 containing a detectable amount of heroin, such
19 violation shall be punishable by a fine of not less
20 than Twenty-five Thousand Dollars (\$25,000.00) and not
21 more than Fifty Thousand Dollars (\$50,000.00), or

22 b. twenty-eight (28) grams or more of a mixture or
23 substance containing a detectable amount of heroin,
24 such violation shall be punishable by a fine of not

1 less than Fifty Thousand Dollars (\$50,000.00) and not
2 more than Five Hundred Thousand Dollars (\$500,000.00);

3 4. Amphetamine or methamphetamine:

4 a. twenty (20) grams or more of a mixture or substance
5 containing a detectable amount of amphetamine or
6 methamphetamine, such violation shall be punishable by
7 a fine of not less than Twenty-five Thousand Dollars
8 (\$25,000.00) and not more than Two Hundred Thousand
9 Dollars (\$200,000.00), or

10 b. two hundred (200) grams or more of a mixture or
11 substance containing a detectable amount of
12 amphetamine or methamphetamine, such violation shall
13 be punishable by a fine of not less than Fifty
14 Thousand Dollars (\$50,000.00) and not more than Five
15 Hundred Thousand Dollars (\$500,000.00);

16 5. Lysergic acid diethylamide (LSD):

17 a. if the quantity involved is not less than fifty (50)
18 dosage units and not more than one thousand (1,000)
19 dosage units, such violation shall be punishable by a
20 fine of not less than Fifty Thousand Dollars
21 (\$50,000.00) and not more than One Hundred Thousand
22 Dollars (\$100,000.00), or

23 b. if the quantity involved is more than one thousand
24 (1,000) dosage units, such violation shall be

1 punishable by a fine of not less than One Hundred
2 Thousand Dollars (\$100,000.00) and not more than Two
3 Hundred Fifty Thousand Dollars (\$250,000.00);

4 6. Phencyclidine (PCP):

5 a. one (1) ounce or more of a substance containing a
6 mixture or substance containing a detectable amount of
7 phencyclidine (PCP), such violation shall be
8 punishable by a fine of not less than Twenty Thousand
9 Dollars (\$20,000.00) and not more than Fifty Thousand
10 Dollars (\$50,000.00), or

11 b. eight (8) ounces or more of a substance containing a
12 mixture or substance containing a detectable amount of
13 phencyclidine (PCP), such violation shall be
14 punishable by a fine of not less than Fifty Thousand
15 Dollars (\$50,000.00) and not more than Two Hundred
16 Fifty Thousand Dollars (\$250,000.00);

17 7. Cocaine base:

18 a. five (5) grams or more of a mixture or substance
19 described in paragraph 2 of this subsection which
20 contains cocaine base, such violation shall be
21 punishable by a fine of not less than Twenty-five
22 Thousand Dollars (\$25,000.00) and not more than One
23 Hundred Thousand Dollars (\$100,000.00), or
24

1 b. fifty (50) grams or more of a mixture or substance
2 described in paragraph 2 of this subsection which
3 contains cocaine base, such violation shall be
4 punishable by a fine of not less than One Hundred
5 Thousand Dollars (\$100,000.00) and not more than Five
6 Hundred Thousand Dollars (\$500,000.00); and

7 8. Methylenedioxy methamphetamine:

8 a. thirty (30) tablets or ten (10) grams of a mixture or
9 substance containing a detectable amount of 3,4-
10 Methylenedioxy methamphetamine, such violation shall
11 be punishable by a fine of not less than Twenty-five
12 Thousand Dollars (\$25,000.00) and not more than One
13 Hundred Thousand Dollars (\$100,000.00), or

14 b. one hundred (100) tablets or thirty (30) grams of a
15 mixture or substance containing a detectable amount of
16 3,4-Methylenedioxy methamphetamine, such violation
17 shall be punishable by a fine of not less than One
18 Hundred Thousand Dollars (\$100,000.00) and not more
19 than Five Hundred Thousand Dollars (\$500,000.00).

20 D. Any person who violates the provisions of this section with
21 respect to a controlled substance specified in subsection A of this
22 section in a quantity specified in subsection C of this section
23 shall, in addition to any fines specified by this section, be
24 punishable by a term of imprisonment as follows:

1 1. Not less than twice the term of imprisonment provided for in
2 Section 2-401 of this title; or

3 2. If the person has previously been convicted of one violation
4 of this section or has been previously convicted of a felony
5 violation of the Uniform Controlled Dangerous Substances Act arising
6 from separate and distinct transactions, not less than three times
7 the term of imprisonment provided for in Section 2-401 of this
8 title; ~~and~~

9 ~~3. If the person has previously been convicted of two or more~~
10 ~~violations of this section or any provision of the Uniform~~
11 ~~Controlled Dangerous Substances Act which constitutes a felony, or a~~
12 ~~combination of such violations arising out of separate and distinct~~
13 ~~transactions, life without parole.~~

14 The terms of imprisonment specified in this subsection shall not
15 be subject to statutory provisions for suspension, deferral or
16 probation, or state correctional institution earned credits accruing
17 from and after November 1, 1989, except for the achievement earned
18 credits authorized by subsection H of Section 138 of Title 57 of the
19 Oklahoma Statutes. To qualify for such achievement credits, such
20 inmates must also be in compliance with the standards for Class
21 level 2 behavior, as defined in subsection D of Section 138 of Title
22 57 of the Oklahoma Statutes.

23 Persons convicted of violations of this section shall not be
24 eligible for appeal bonds.

1 E. Any person convicted of any offense described in this
2 section shall, in addition to any fine imposed, pay a special
3 assessment trauma-care fee of One Hundred Dollars (\$100.00) to be
4 deposited into the Trauma Care Assistance Revolving Fund created in
5 Section ~~1-2522~~ 1-2530.9 of this title.

6 SECTION 8. NEW LAW A new section of law not to be
7 codified in the Oklahoma Statutes reads as follows:

8 The Administrative Office of the Courts shall conduct a study
9 and make recommendations to the Legislature concerning the impact
10 that increased fines, fees, and assessments are making on the
11 successful reentry of criminal defendants. The Administrative
12 Office of the Courts shall direct other state entities including,
13 but not limited to, the Department of Corrections, the Oklahoma
14 District Attorneys Council, the Oklahoma State Bureau of
15 Investigation, the Oklahoma Criminal Justice Resource Center, the
16 Oklahoma Indigent Defense System, county indigent defenders, and a
17 representative of the county court clerks, to provide assistance and
18 information in the preparation of the study and recommendations.

19 SECTION 9. NEW LAW A new section of law not to be
20 codified in the Oklahoma Statutes reads as follows:

21 The Department of Labor shall conduct a study of statutory and
22 regulatory restrictions on employment of felons and make
23 recommendations to the Legislature on whether such restrictions
24 should be modified in order to improve the reentry of felons into

1 society. The Department of Labor shall direct other state entities
2 including, but not limited to, the Department of Corrections, the
3 Oklahoma District Attorneys Council, the Oklahoma State Bureau of
4 Investigation, the Oklahoma Criminal Justice Resource Center, the
5 Oklahoma Indigent Defense System, and county indigent defenders, to
6 provide assistance and information in the preparation of the study
7 and recommendations.

8 SECTION 10. This act shall become effective November 1, 2007.

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