

THE HOUSE OF REPRESENTATIVES
Wednesday, April 1, 2009

Committee Substitute for
ENGROSSED
Senate Bill No. 518

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 518 - By:
JUSTICE of the Senate and OSBORN, NELSON AND MORGAN of the House.

An Act relating to crime victims; amending 21 O.S. 2001, Section 142.13, as last amended by Section 1, Chapter 283, O.S.L. 2008 (21 O.S. Supp. 2008, Section 142.13), which relates to the Oklahoma Crime Victims Compensation Act; modifying scope of certain reimbursable cost; amending 22 O.S. 2001, Section 984, which relates to definition of victim impact statement; adding grandparent to certain definition; amending 22 O.S. 2001, Section 991a, as last amended by Section 19, Chapter 3, O.S.L. 2008 (22 O.S. Supp. 2008, Section 991a), which relates to sentencing powers of the court; directing payment of fee to certain victims; and providing an effective date.

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

1 SECTION 1. AMENDATORY 21 O.S. 2001, Section 142.13, as last amended by
2 Section 1, Chapter 283, O.S.L. 2008 (21 O.S. Supp. 2008, Section 142.13), is amended to
3 read as follows:

4 Section 142.13 A. The Crime Victims Compensation Board may compensate for
5 work loss, replacement services loss, dependent's economic loss and dependent's
6 replacement service loss. Compensation for a caregiver who has out-of-pocket wage loss
7 as a result of caring for the victim who was injured as a result of criminally injurious
8 conduct may not exceed Three Thousand Dollars (\$3,000.00).

1 B. Compensation payable to a victim and to all other claimants sustaining
2 economic loss because of injury to or death of that victim may not exceed Twenty
3 Thousand Dollars (\$20,000.00) in the aggregate. The Board may, after approval of an
4 initial award of Twenty Thousand Dollars (\$20,000.00), grant an additional sum not to
5 exceed Twenty Thousand Dollars (\$20,000.00), specifically for loss of wages for the victim
6 or loss of support for dependents of a deceased victim provided, there is verifiable
7 economic loss after deducting payments from other sources. In no event shall
8 compensation payable to a victim and to all other claimants sustaining economic loss
9 because of injury to or death of that victim exceed Forty Thousand Dollars (\$40,000.00)
10 in the aggregate.

11 C. The Board may provide for the payment to a claimant in a lump sum or in
12 installments. At the request of the claimant, the Board may convert future economic
13 loss, other than allowable expense, to a lump sum.

14 D. An award payable in a lump sum or installments for loss of support for a
15 dependent of the deceased victim may be computed through a formula which calculates
16 the net loss of support for dependents based upon an estimated date of retirement or an
17 estimated date of adulthood for dependent children, beginning with the date of death of
18 the victim and ending with the least of one of the following time periods for each
19 dependent filing loss of support:

20 1. The amount of time from the date of death of the victim to the date the victim
21 would have been expected to reach sixty-two (62) years of age;

1 2. The amount of time from the date of death of the victim to the date the spouse of
2 the victim is expected to reach sixty-two (62) years of age; or

3 3. The amount of time from the date of death of the victim to the date a dependent
4 child is expected to reach eighteen (18) years of age or twenty-three (23) years of age if
5 the dependent child is enrolled as a full-time student. An award payable in installments
6 for future loss of support may be modified by the Board in the event a dependent child
7 receiving loss of support is between the ages of eighteen (18) and twenty-three (23) years
8 of age and is no longer enrolled as a full-time student, the dependent dies before all
9 installments are paid or the dependent receiving installments moves and leaves no
10 forwarding address with the Board office.

11 E. An award shall not be subject to execution, attachment, garnishment or other
12 process, except for child support and except that an award for allowable expense shall
13 not be exempt from a claim of a creditor to the extent that such creditor has provided
14 products, services or accommodations, the costs of which are included in the award.

15 F. An assignment by the claimant to any future award under the provisions of this
16 act is unenforceable, except:

17 1. An assignment of any award for work loss to assure payment of court ordered
18 alimony, maintenance or child support; or

19 2. An assignment of any award for allowable expense to the extent that the benefits
20 are for the cost of products, services or accommodations necessitated by the injury or
21 death on which the claim is based and are provided or to be provided by the assignee.

1 G. The Board may, in its discretion, approve payment of crisis counseling, occurring
2 within three (3) years of the crime, in an amount not to exceed Three Thousand Dollars
3 (\$3,000.00) for each family member of a homicide victim; provided, the counselor is a
4 qualified mental health care provider. Medical and pharmaceutical treatment is not
5 compensable for any family member of a deceased victim.

6 H. Outpatient counseling expenses for a victim of criminally injurious conduct may
7 be considered by the Board provided the counseling is focused on the crime and the
8 counselor is a qualified mental health care provider. A total not to exceed Three
9 Thousand Dollars (\$3,000.00) may be awarded for individual counseling sessions for
10 victims of criminally injurious conduct. Sessions between the mental health care
11 provider and nonoffending parents of a victimized child under eighteen (18) years of age
12 may also be included in the award provided the combined total for the counseling and
13 parental sessions do not exceed Three Thousand Dollars (\$3,000.00) and the parental
14 sessions relate to the victimization. In extreme cases, the Board may, in its discretion,
15 waive the three-thousand-dollar limit. Inpatient mental health treatment will be
16 reviewed on a case-by-case basis and may be compensated, at the discretion of the Board,
17 in an amount not to exceed Twenty Thousand Dollars (\$20,000.00).

18 I. Reasonable funeral, cremation or burial expenses shall not exceed Seven
19 Thousand Five Hundred Dollars (\$7,500.00).

20 J. Reasonable costs associated with ~~homicide~~ crime scene cleanup shall not exceed
21 Two Thousand Dollars (\$2,000.00).

1 K. Loss of income of a caregiver shall not exceed Three Thousand Dollars
2 (\$3,000.00).

3 L. Reasonable costs for vehicle impound fees are limited to violent crimes occurring
4 in a vehicle owned by the victim of the violent crime or an eligible claimant, provided
5 such fee is associated with the collection and security of crime scene evidence.

6 Reimbursement for vehicle impound fees shall not exceed Seven Hundred Fifty Dollars
7 (\$750.00).

8 SECTION 2. AMENDATORY 22 O.S. 2001, Section 984, is amended to read as
9 follows:

10 Section 984. As used in Titles 21, 22 and 57 of the Oklahoma Statutes:

11 1. "Victim impact statements" means information about the financial, emotional,
12 psychological, and physical effects of a violent crime on each victim and members of their
13 immediate family, or person designated by the victim or by family members of the victim
14 and includes information about the victim, circumstances surrounding the crime, the
15 manner in which the crime was perpetrated, and the victim's opinion of a recommended
16 sentence;

17 2. "Members of the immediate family" means the spouse, a child by birth or
18 adoption, a stepchild, a parent, a grandparent, or a sibling of each victim; and

19 3. "Violent crime" means any crime listed in paragraph 5 of Section 571 of Title 57
20 of the Oklahoma Statutes or any attempt, conspiracy or solicitation to commit any such
21 crime or the crime of negligent homicide pursuant to Section 11-903 of Title 47 of the
22 Oklahoma Statutes or the crime of causing great bodily injury while driving under the

1 influence of intoxicating substance, pursuant to Section 11-904 of Title 47 of the
2 Oklahoma Statutes.

3 SECTION 3. AMENDATORY 22 O.S. 2001, Section 991a, as last amended by
4 Section 19, Chapter 3, O.S.L. 2008 (22 O.S. Supp. 2008, Section 991a), is amended to
5 read as follows:

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

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

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

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

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

1 888, 891, 1021, 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and
2 1123 of Title 21 of the Oklahoma Statutes,
3 g. to repay the reward or part of the reward paid by a certified local
4 crimestoppers program and the Oklahoma Reward System. In
5 determining whether the defendant shall repay the reward or part of
6 the reward, the court shall consider the ability of the defendant to
7 make the payment, the financial hardship on the defendant to make
8 the required payment, and the importance of the information to the
9 prosecution of the defendant as provided by the arresting officer or the
10 district attorney with due regard for the confidentiality of the records
11 of the certified local crimestoppers program and the Oklahoma Reward
12 System. The court shall assess this repayment against the defendant
13 as a cost of prosecution. "Certified local crimestoppers program"
14 means a crimestoppers program certified by the Office of the Attorney
15 General pursuant to Section 991g of this title. The "Oklahoma Reward
16 System" means the reward program established by Section 150.18 of
17 Title 74 of the Oklahoma Statutes,
18 h. to reimburse the Oklahoma State Bureau of Investigation for costs
19 incurred by that agency during its investigation of the crime for which
20 the defendant pleaded guilty, nolo contendere or was convicted,
21 including compensation for laboratory, technical, or investigation
22 services performed by the Bureau if, in the opinion of the court, the

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

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

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

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

- 1 l. to participate in an assessment and evaluation by an assessment
2 agency or assessment personnel certified by the Department of Mental
3 Health and Substance Abuse Services pursuant to Section 3-460 of
4 Title 43A of the Oklahoma Statutes and, as determined by the
5 assessment, participate in an alcohol and drug substance abuse course
6 or treatment program or both, pursuant to Sections 3-452 and 3-453 of
7 Title 43A of the Oklahoma Statutes, or as ordered by the court,
- 8 m. to be placed in a victims impact panel program or victim/offender
9 reconciliation program and payment of a fee to the program of not less
10 than Fifteen Dollars (\$15.00) nor more than Fifty Dollars (\$50.00) as
11 set by the governing authority of the program to offset the cost of
12 participation by the defendant. Provided, each victim/offender
13 reconciliation program shall be required to obtain a written consent
14 form voluntarily signed by the victim and defendant that specifies the
15 methods to be used to resolve the issues, the obligations and rights of
16 each person, and the confidentiality of the proceedings. Volunteer
17 mediators and employees of a victim/offender reconciliation program
18 shall be immune from liability and have rights of confidentiality as
19 provided in Section 1805 of Title 12 of the Oklahoma Statutes,
- 20 n. to install, at the expense of the defendant, an ignition interlock device
21 approved by the Board of Tests for Alcohol and Drug Influence. The
22 device shall be installed upon every motor vehicle operated by the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 a. to participate in an alcohol and drug assessment and evaluation by an
22 assessment agency or assessment personnel certified by the

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

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

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

18 8. In addition to the other sentencing powers of the court, in the case of a person
19 convicted of prostitution pursuant to Section 1029 of Title 21 of the Oklahoma Statutes,
20 require such person to receive counseling for the behavior which may have caused such
21 person to engage in prostitution activities. Such person may be required to receive

1 counseling in areas including but not limited to alcohol and substance abuse, sexual
2 behavior problems, or domestic abuse or child abuse problems;

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

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

19 11. In addition to the other sentencing powers of the court, the court, in the case of
20 a person convicted of child abuse or neglect, as defined in Section 7102 of Title 10 of the
21 Oklahoma Statutes, may require the person to undergo treatment or to participate in

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

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

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

14 14. In addition to the other sentencing powers of the court, in the case of a sex
15 offender who is required by law to register pursuant to the Sex Offenders Registration
16 Act, the court may prohibit the person from accessing or using any Internet social
17 networking web site that has the potential or likelihood of allowing the sex offender to
18 have contact with any child who is under the age of eighteen (18) years; or

19 15. In addition to the other sentencing powers of the court, in the case of a sex
20 offender who is required by law to register pursuant to the Sex Offenders Registration
21 Act, the court may require the person to register any electronic mail address information,

1 instant message, chat or other Internet communication name or identity information
2 that the person uses or intends to use while accessing the Internet.

3 B. Notwithstanding any other provision of law, any person who is found guilty of a
4 violation of any provision of Section 761 or 11-902 of Title 47 of the Oklahoma Statutes or
5 any person pleading guilty or nolo contendere for a violation of any provision of such
6 sections shall be ordered to participate in, prior to sentencing, an alcohol and drug
7 assessment and evaluation by an assessment agency or assessment personnel certified by
8 the Department of Mental Health and Substance Abuse Services for the purpose of
9 evaluating the receptivity to treatment and prognosis of the person. The court shall
10 order the person to reimburse the agency or assessor for the evaluation. The fee shall be
11 the amount provided in subsection C of Section 3-460 of Title 43A of the Oklahoma
12 Statutes. The evaluation shall be conducted at a certified assessment agency, the office
13 of a certified assessor or at another location as ordered by the court. The agency or
14 assessor shall, within seventy-two (72) hours from the time the person is assessed,
15 submit a written report to the court for the purpose of assisting the court in its final
16 sentencing determination. No person, agency or facility operating an alcohol and drug
17 substance abuse evaluation program certified by the Department of Mental Health and
18 Substance Abuse Services shall solicit or refer any person evaluated pursuant to this
19 subsection for any treatment program or alcohol and drug substance abuse service in
20 which such person, agency or facility has a vested interest; however, this provision shall
21 not be construed to prohibit the court from ordering participation in or any person from
22 voluntarily utilizing a treatment program or alcohol and drug substance abuse service

1 offered by such person, agency or facility. If a person is sentenced to the custody of the
2 Department of Corrections and the court has received a written evaluation report
3 pursuant to this subsection, the report shall be furnished to the Department of
4 Corrections with the judgment and sentence. Any evaluation report submitted to the
5 court pursuant to this subsection shall be handled in a manner which will keep such
6 report confidential from the general public's review. Nothing contained in this
7 subsection shall be construed to prohibit the court from ordering judgment and sentence
8 in the event the defendant fails or refuses to comply with an order of the court to obtain
9 the evaluation required by this subsection.

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

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~~Strike thru~~ language denotes deletion from present Statutes.

1 of the district attorney. Both the application and the waiver shall be made part of the
2 record of the case.

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

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

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

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~~Strike thru~~ language denotes deletion from present Statutes.

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

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

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

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

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

1 H. As used in this section:

2 1. "Ignition interlock device" means a device that, without tampering or
3 intervention by another person, would prevent the defendant from operating a motor
4 vehicle if the defendant has a blood or breath alcohol concentration of two-hundredths
5 (0.02) or greater; and

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

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

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

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

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

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

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

11 SECTION 4. This act shall become effective November 1, 2009.

12 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 03-31-09 - DO PASS,
13 As Amended and Coauthored.