

EHB 2934

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**THE STATE SENATE**  
**Thursday, March 25, 2010**

**ENGROSSED**

**House Bill No. 2934**

ENGROSSED HOUSE BILL NO. 2934 - By: Luttrell, Duncan, Smithson, Cannaday, Walker, Pittman and Wesselhoft of the House and Anderson, Stanislawski, Paddack and Sykes of the Senate.

An Act relating to prisons and reformatories; amending 22 O.S. 2001, Section 991a, as last amended by Section 132, Chapter 234, O.S.L. 2009 (22 O.S. Supp. 2009, Section 991a), which relates to sentencing; expanding information court may require sex offenders provide; amending 57 O.S. 2001, Section 584, as last amended by Section 6, Chapter 404, O.S.L. 2009 (57 O.S. Supp. 2009, Section 584), which relates to sex offender registration; requiring registrants provide certain information; allowing access to certain information by Internet entities; requiring Internet entities provide certain information; requiring updates of information; allowing fee; providing for promulgation of rules; defining term; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2001, Section 991a, as last amended by Section 132, Chapter 234, O.S.L. 2009 (22 O.S. Supp. 2009, Section 991a), is amended to read as follows:

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

- 1. Suspend the execution of sentence in whole or in part, with or without probation. The court, in addition, may order the

1 convicted defendant at the time of sentencing or at any time during  
2 the suspended sentence to do one or more of the following:

- 3 a. to provide restitution to the victim as provided by  
4 Section 991f et seq. of this title or according to a  
5 schedule of payments established by the sentencing  
6 court, together with interest upon any pecuniary sum  
7 at the rate of twelve percent (12%) per annum, if the  
8 defendant agrees to pay such restitution or, in the  
9 opinion of the court, if the defendant is able to pay  
10 such restitution without imposing manifest hardship on  
11 the defendant or the immediate family and if the  
12 extent of the damage to the victim is determinable  
13 with reasonable certainty,
- 14 b. to reimburse any state agency for amounts paid by the  
15 state agency for hospital and medical expenses  
16 incurred by the victim or victims, as a result of the  
17 criminal act for which such person was convicted,  
18 which reimbursement shall be made directly to the  
19 state agency, with interest accruing thereon at the  
20 rate of twelve percent (12%) per annum,
- 21 c. to engage in a term of community service without  
22 compensation, according to a schedule consistent with

1 the employment and family responsibilities of the  
2 person convicted,  
3 d. to pay a reasonable sum into any trust fund,  
4 established pursuant to the provisions of Sections 176  
5 through 180.4 of Title 60 of the Oklahoma Statutes,  
6 and which provides restitution payments by convicted  
7 defendants to victims of crimes committed within this  
8 state wherein such victim has incurred a financial  
9 loss,  
10 e. to confinement in the county jail for a period not to  
11 exceed six (6) months,  
12 f. to confinement as provided by law together with a term  
13 of post-imprisonment community supervision for not  
14 less than three (3) years of the total term allowed by  
15 law for imprisonment, with or without restitution;  
16 provided, however, the authority of this provision is  
17 limited to Section 843.5 of Title 21 of the Oklahoma  
18 Statutes when the offense involved sexual abuse or  
19 sexual exploitation; Sections 681, 741 and 843.1 of  
20 Title 21 of the Oklahoma Statutes when the offense  
21 involved sexual abuse or sexual exploitation; and  
22 Sections 865 et seq., 885, 886, 888, 891, 1021,

1 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  
4 certified local crimestoppers program and the Oklahoma  
5 Reward System. In determining whether the defendant  
6 shall repay the reward or part of the reward, the  
7 court shall consider the ability of the defendant to  
8 make the payment, the financial hardship on the  
9 defendant to make the required payment, and the  
10 importance of the information to the prosecution of  
11 the defendant as provided by the arresting officer or  
12 the district attorney with due regard for the  
13 confidentiality of the records of the certified local  
14 crimestoppers program and the Oklahoma Reward System.  
15 The court shall assess this repayment against the  
16 defendant as a cost of prosecution. "Certified local  
17 crimestoppers program" means a crimestoppers program  
18 certified by the Office of the Attorney General  
19 pursuant to Section 991g of this title. The "Oklahoma  
20 Reward System" means the reward program established by  
21 Section 150.18 of Title 74 of the Oklahoma Statutes,  
22 h. to reimburse the Oklahoma State Bureau of  
23 Investigation for costs incurred by that agency during

1 its investigation of the crime for which the defendant  
2 pleaded guilty, nolo contendere or was convicted,  
3 including compensation for laboratory, technical, or  
4 investigation services performed by the Bureau if, in  
5 the opinion of the court, the defendant is able to pay  
6 without imposing manifest hardship on the defendant,  
7 and if the costs incurred by the Bureau during the  
8 investigation of the defendant's case may be  
9 determined with reasonable certainty,  
10 i. to reimburse the Oklahoma State Bureau of  
11 Investigation and any authorized law enforcement  
12 agency for all costs incurred by that agency for  
13 cleaning up an illegal drug laboratory site for which  
14 the defendant pleaded guilty, nolo contendere or was  
15 convicted. The court clerk shall collect the amount  
16 and may retain five percent (5%) of such monies to be  
17 deposited in the Court Clerk Revolving Fund to cover  
18 administrative costs and shall remit the remainder to  
19 the Oklahoma State Bureau of Investigation to be  
20 deposited in the OSBI Revolving Fund established by  
21 Section 150.19a of Title 74 of the Oklahoma Statutes  
22 or to the general fund wherein the other law  
23 enforcement agency is located,

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

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

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

- 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

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,

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

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

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

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

1 Twenty-five Dollars (\$25.00) to the victim for each  
2 check, and impose a bogus check fee to be paid to the  
3 district attorney. The bogus check fee paid to the  
4 district attorney shall be equal to the amount  
5 assessed as court costs plus Twenty-five Dollars  
6 (\$25.00) for each check upon filing of the case in  
7 district court. This money shall be deposited in the  
8 Bogus Check Restitution Program Fund as established in  
9 subsection B of Section 114 of this title.

10 Additionally, the court may require the offender to  
11 pay restitution and bogus check fees on any other  
12 bogus check or checks that have been submitted to the  
13 District Attorney Bogus Check Restitution Program, and  
14 hh. any other provision specifically ordered by the court.

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

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

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

3           4. Order the defendant to reimburse the Oklahoma State Bureau  
4 of Investigation for costs incurred by that agency during its  
5 investigation of the crime for which the defendant pleaded guilty,  
6 nolo contendere or was convicted, including compensation for  
7 laboratory, technical, or investigation services performed by the  
8 Bureau if, in the opinion of the court, the defendant is able to pay  
9 without imposing manifest hardship on the defendant, and if the  
10 costs incurred by the Bureau during the investigation of the  
11 defendant's case may be determined with reasonable certainty;

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

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

1           7. In addition to the other sentencing powers of the court, in  
2 the case of a person convicted of operating or being in control of a  
3 motor vehicle while the person was under the influence of alcohol,  
4 other intoxicating substance, or a combination of alcohol or another  
5 intoxicating substance, or convicted of operating a motor vehicle  
6 while the ability of the person to operate such vehicle was impaired  
7 due to the consumption of alcohol, require such person:

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

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

1 opinion of the court the defendant has the ability to  
2 pay such fee,  
3 c. to both participate in the alcohol and drug substance  
4 abuse course or treatment program, pursuant to  
5 subparagraph a of this paragraph and attend a victims  
6 impact panel program, pursuant to subparagraph b of  
7 this paragraph,  
8 d. to install, at the expense of the person, an ignition  
9 interlock device approved by the Board of Tests for  
10 Alcohol and Drug Influence, upon every motor vehicle  
11 operated by such person and to require that a notation  
12 of this restriction be affixed to the person's driver  
13 license at the time of reinstatement of the license.  
14 The restriction shall remain on the driver license for  
15 such period as the court shall determine. The  
16 restriction may be modified or removed by order of the  
17 court and notice of the order shall be given to the  
18 Department of Public Safety. Upon the expiration of  
19 the period for the restriction, the Department of  
20 Public Safety shall remove the restriction without  
21 further court order. Failure to comply with the order  
22 to install an ignition interlock device or operating  
23 any vehicle without such device during the period of

1           restriction shall be a violation of the sentence and  
2           may be punished as deemed proper by the sentencing  
3           court, or

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

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

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

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

21           11. In addition to the other sentencing powers of the court,  
22 the court, in the case of a person convicted of child abuse or  
23 neglect, as defined in Section 1-1-105 of Title 10A of the Oklahoma

1 Statutes, may require the person to undergo treatment or to  
2 participate in counseling services. The defendant may be required  
3 to pay all or part of the cost of the treatment or counseling  
4 services;

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

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

19 14. In addition to the other sentencing powers of the court, in  
20 the case of a sex offender who is required by law to register  
21 pursuant to the Sex Offenders Registration Act, the court may  
22 prohibit the person from accessing or using any Internet social  
23 networking web site that has the potential or likelihood of allowing

1 the sex offender to have contact with any child who is under the age  
2 of eighteen (18) years; or

3 15. In addition to the other sentencing powers of the court, in  
4 the case of a sex offender who is required by law to register  
5 pursuant to the Sex Offenders Registration Act, the court may  
6 require the person to register any electronic mail address  
7 information, instant message, chat or other Internet communication  
8 name or identity information that the person uses or intends to use  
9 while accessing the Internet or used for other purposes of social  
10 networking or other similar Internet communication.

11 B. Notwithstanding any other provision of law, any person who  
12 is found guilty of a violation of any provision of Section 761 or  
13 11-902 of Title 47 of the Oklahoma Statutes or any person pleading  
14 guilty or nolo contendere for a violation of any provision of such  
15 sections shall be ordered to participate in, prior to sentencing, an  
16 alcohol and drug assessment and evaluation by an assessment agency  
17 or assessment personnel certified by the Department of Mental Health  
18 and Substance Abuse Services for the purpose of evaluating the  
19 receptivity to treatment and prognosis of the person. The court  
20 shall order the person to reimburse the agency or assessor for the  
21 evaluation. The fee shall be the amount provided in subsection C of  
22 Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation  
23 shall be conducted at a certified assessment agency, the office of a

1 certified assessor or at another location as ordered by the court.  
2 The agency or assessor shall, within seventy-two (72) hours from the  
3 time the person is assessed, submit a written report to the court  
4 for the purpose of assisting the court in its final sentencing  
5 determination. No person, agency or facility operating an alcohol  
6 and drug substance abuse evaluation program certified by the  
7 Department of Mental Health and Substance Abuse Services shall  
8 solicit or refer any person evaluated pursuant to this subsection  
9 for any treatment program or alcohol and drug substance abuse  
10 service in which such person, agency or facility has a vested  
11 interest; however, this provision shall not be construed to prohibit  
12 the court from ordering participation in or any person from  
13 voluntarily utilizing a treatment program or alcohol and drug  
14 substance abuse service offered by such person, agency or facility.  
15 If a person is sentenced to the custody of the Department of  
16 Corrections and the court has received a written evaluation report  
17 pursuant to this subsection, the report shall be furnished to the  
18 Department of Corrections with the judgment and sentence. Any  
19 evaluation report submitted to the court pursuant to this subsection  
20 shall be handled in a manner which will keep such report  
21 confidential from the general public's review. Nothing contained in  
22 this subsection shall be construed to prohibit the court from  
23 ordering judgment and sentence in the event the defendant fails or

1 refuses to comply with an order of the court to obtain the  
2 evaluation required by this subsection.

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

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

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

20 F. The Department of Corrections, or such other agency as the  
21 court may designate, shall be responsible for the monitoring and  
22 administration of the restitution and service programs provided for  
23 by subparagraphs a, c, and d of paragraph 1 of subsection A of this

1 section, and shall ensure that restitution payments are forwarded to  
2 the victim and that service assignments are properly performed.

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

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

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

20 4. The Department is hereby authorized to provide technical  
21 assistance to any county in establishing a Program, regardless of  
22 whether the county enters into a contract pursuant to this  
23 subsection. Technical assistance shall include appropriate

1 staffing, development of community resources, sponsorship,  
2 supervision and any other requirements.

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

8 H. As used in this section:

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

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

19 I. A person convicted of a felony offense or receiving any form  
20 of probation for an offense in which registration is required  
21 pursuant to the Sex Offenders Registration Act shall submit to  
22 deoxyribonucleic acid DNA testing for law enforcement identification  
23 purposes in accordance with Section 150.27 of Title 74 of the

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

18 Any person who is incarcerated in the custody of the Department  
19 of Corrections after July 1, 1996, and who has not been released  
20 before the effective date of this act, shall provide a blood or  
21 saliva sample prior to release. Every person convicted of a felony  
22 offense after the effective date of this act whose sentence does not  
23 include a term of confinement with the Department of Corrections

1 shall submit a blood or saliva sample. Those felons sentenced to  
2 unsupervised probation or otherwise not supervised by the Department  
3 of Corrections shall submit for blood or saliva testing to the  
4 sheriff of the sentencing county.

5 J. Samples of blood or saliva for DNA testing required by  
6 subsection I of this section shall be taken by employees or  
7 contractors of the Department of Corrections, peace officers, or the  
8 county sheriff or employees or contractors of the sheriff's office.  
9 The individuals shall be properly trained to collect blood or saliva  
10 samples. Persons collecting blood or saliva for DNA testing  
11 pursuant to this section shall be immune from civil liabilities  
12 arising from this activity. All collectors of DNA samples shall  
13 ensure the collection of samples are mailed to the Oklahoma State  
14 Bureau of Investigation within ten (10) days of the time the subject  
15 appears for testing or within ten (10) days of the date the subject  
16 comes into physical custody to serve a term of incarceration. All  
17 collectors of DNA samples shall use sample kits provided by the OSBI  
18 and procedures promulgated by the OSBI. Persons subject to DNA  
19 testing who are not received at the Lexington Assessment and  
20 Reception Center shall be required to pay a fee of Fifteen Dollars  
21 (\$15.00) to the agency collecting the sample for submission to the  
22 OSBI Combined DNA Index System (CODIS) Database. Any fees collected  
23 pursuant to this subsection shall be deposited in the revolving

1 account or the service fee account of the collection agency or  
2 department.

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

8 SECTION 2. AMENDATORY 57 O.S. 2001, Section 584, as last  
9 amended by Section 6, Chapter 404, O.S.L. 2009 (57 O.S. Supp. 2009,  
10 Section 584), is amended to read as follows:

11 Section 584. A. Any registration with the Department of  
12 Corrections required by the Sex Offenders Registration Act shall be  
13 in a form approved by the Department and shall include the following  
14 information about the person registering:

15 1. The name of the person and all aliases used or under which  
16 the person has been known;

17 2. A complete description of the person, including a photograph  
18 and fingerprints, and when requested by the Department of  
19 Corrections, such registrant shall submit to a blood or saliva test  
20 for purposes of a deoxyribonucleic acid (DNA) profile. Submission  
21 to testing for individuals registering shall be within thirty (30)  
22 days of registration. Registrants who already have valid samples on  
23 file in the Oklahoma State Bureau of Investigation (OSBI) DNA

1 Offender Database shall not be required to submit duplicate samples  
2 for testing;

3 3. The offenses listed in Section 582 of this title for which  
4 the person has been convicted or the person received a suspended  
5 sentence or any form of probation, where the offense was committed,  
6 where the person was convicted or received the suspended sentence or  
7 any form of probation, and the name under which the person was  
8 convicted or received the suspended sentence or probation;

9 4. The name and location of each hospital or penal institution  
10 to which the person was committed for each offense listed in Section  
11 582 of this title;

12 5. Where the person previously resided, where the person  
13 currently resides, how long the person has resided there, how long  
14 the person expects to reside there, and how long the person expects  
15 to remain in the county and in this state. The Department of  
16 Corrections shall conduct address verification of each registered  
17 sex offender as follows:

18 a. on an annual basis, if the numeric risk level of the  
19 person is one, or

20 b. on a semiannual basis, if the numeric risk level of  
21 the person is two.

22 The Department of Corrections shall mail a nonforwardable  
23 verification form to the last-reported address of the person. The

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

1 designated as the primary registration authority of the person may,  
2 at any time, mail a nonforwardable verification form to the last-  
3 reported address of the person. The person shall return the  
4 verification form in person to the local law enforcement authority  
5 that mailed the form within ten (10) days after receipt of the form.  
6 The local law enforcement authority shall require the person to  
7 produce proof of the identity of the person and current address;

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

10 7. A description of all occupants residing with the person  
11 registering, including, but not limited to, name, date of birth,  
12 gender, relation to the person registering, and how long the  
13 occupant has resided there; ~~and~~

14 8. The level assignment of the person; and

15 9. Any electronic mail address information, instant message,  
16 chat or other Internet communication name or identity information  
17 that the person uses or intends to use while accessing the Internet  
18 or used for other purposes of social networking or other similar  
19 Internet communication.

20 B. Conviction data and fingerprints shall be promptly  
21 transmitted at the time of registration to the Oklahoma State Bureau  
22 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 full name of the person, alias, date of birth, sex,  
8 race, height, weight, eye color, social security number, driver  
9 license number, and home address;

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 level assignment 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

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; and

9           5. Any electronic mail address information, instant message,  
10 chat or other Internet communication name or identity information  
11 that the person uses or intends to use while accessing the Internet  
12 or used for other purposes of social networking or other similar  
13 Internet communication.

14           D. Any person subject to the provisions of the Sex Offenders  
15 Registration Act who changes address, employment or student  
16 enrollment status shall appear in person and give notification to  
17 the Department of Corrections and the local law enforcement  
18 authority of the change of address and the new address, the change  
19 of employment or the change of student enrollment status no later  
20 than three (3) business days prior to the abandonment of or move  
21 from the current address or, in the case of change of employment or  
22 student enrollment, within three (3) business days of such change.

1 If the new address, employment or student enrollment is under the  
2 jurisdiction of a different local law enforcement authority:

3 1. The Department of Corrections and the local law enforcement  
4 authority shall notify the new local law enforcement authority by  
5 teletype or electronic transmission of the change of address,  
6 employment or student enrollment status;

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

9 3. The new local law enforcement authority shall notify the  
10 most recent registering agency by teletype or electronic  
11 transmission of the change in address, employment or student  
12 enrollment status of the offender. If the new address is in another  
13 state the Department of Corrections shall promptly notify the agency  
14 responsible for registration in that state of the new address of the  
15 offender.

16 E. Any person subject to the provisions of the Sex Offenders  
17 Registration Act who is unable to provide an address to the  
18 Department of Corrections or local law enforcement authority as  
19 required in subsections A and C of this section and registers as a  
20 transient shall report in person to the nearest local law  
21 enforcement authority every seven (7) days and provide to the local  
22 law enforcement authority the approximate location of where the  
23 person is staying and where the person plans to stay.

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

14 G. The Department of Corrections shall, upon the request of any  
15 Internet entity, release to such entity any information required  
16 pursuant to paragraph 9 of subsection A of this section or paragraph  
17 5 of subsection C of this section that would enable the Internet  
18 entity to prescreen or remove sex offenders from its services or, in  
19 conformity with state and federal law, advise law enforcement or  
20 other governmental entities of potential violations of law or  
21 threats to public safety. Before releasing information to an  
22 Internet entity the Department shall require an Internet entity that  
23 requests information to submit to the Department the name, address

1 and telephone number of such entity and the specific legal nature  
2 and corporate status of such entity. Except for the purposes  
3 specified in this subsection, an Internet entity shall not publish  
4 or in any way disclose or redisclose any information provided to it  
5 by the Department pursuant to this subsection. The Department shall  
6 update any information released pursuant to this subsection on a  
7 monthly basis to ensure that the information of every individual  
8 that has been removed from the sex offender registry in this state  
9 is no longer released pursuant to this subsection. The Department  
10 may charge the Internet entity a fee for access to information  
11 pursuant to this subsection. The Department shall promulgate any  
12 rules necessary to implement the provisions of this subsection. As  
13 used in this subsection "Internet entity" means any business,  
14 organization or other entity providing or offering a service over  
15 the Internet which permits persons under eighteen (18) years of age  
16 to access, meet, congregate or communicate with other users for the  
17 purpose of social networking. This definition shall not include  
18 general e-mail services.

19 H. The Superintendent of Public Instruction is authorized to  
20 copy and shall distribute information from the sex offender registry  
21 to school districts and individual public and private schools within  
22 the state with a notice using the following or similar language: "A  
23 person whose name appears on this registry has been convicted of a

1 sex offense. Continuing to employ a person whose name appears on  
2 this registry may result in civil liability for the employer or  
3 criminal prosecution pursuant to Section 589 of Title 57 of the  
4 Oklahoma Statutes."

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

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

17 When a local law enforcement authority sends a copy of or  
18 otherwise makes the sex offender registry available to any public or  
19 private school offering any combination of prekindergarten through  
20 twelfth grade classes or child care facility licensed by the state,  
21 the agency shall provide a notice using the following or similar  
22 language: "A person whose name appears on this registry has been  
23 convicted of a sex offense. Continuing to employ a person whose

1 name appears on this registry may result in civil liability for the  
2 employer or criminal prosecution pursuant to Section 589 of Title 57  
3 of the Oklahoma Statutes."

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

19 ~~K.~~ L. 1. Any person who has been convicted of or received a  
20 suspended sentence or any probationary term, including a deferred  
21 sentence imposed in violation of subsection G of Section 991c of  
22 Title 22 of the Oklahoma Statutes, for any crime listed in Section  
23 582 of this title and:

1           a.    who is subsequently convicted of a crime or an attempt  
2                   to commit a crime listed in subsection A of Section  
3                   582 of this title, or  
4           b.    who enters this state after November 1, 1997, and who  
5                   has been convicted of an additional crime or attempted  
6                   crime which, if committed or attempted in this state,  
7                   would be a crime or an attempt to commit a crime  
8                   provided for in subsection A of Section 582 of this  
9                   title,  
10 shall be subject to all of the registration requirements of this act  
11 and shall be designated by the Department of Corrections as a  
12 habitual sex offender. A habitual sex offender shall be required to  
13 register for the lifetime of the habitual sex offender.

14           2.    On or after November 1, 1999, any person who has been  
15 convicted of a crime or an attempt to commit a crime, received a  
16 suspended sentence or any probationary term, including a deferred  
17 sentence imposed in violation of subsection G of Section 991c of  
18 Title 22 of the Oklahoma Statutes, for a crime provided for in  
19 Section ~~7115~~ 843.5 of Title ~~10~~ 21 of the Oklahoma Statutes, if the  
20 offense involved sexual abuse or sexual exploitation as these terms  
21 are defined in Section ~~7102~~ 1-1-105 of Title ~~10~~ 10A of the Oklahoma  
22 Statutes, Section 885, 888, 1111.1, 1114 or 1123 of Title 21 of the  
23 Oklahoma Statutes shall be subject to all the registration

1 requirements of this act and shall be designated by the Department  
2 of Corrections as an aggravated sex offender. An aggravated sex  
3 offender shall be required to register for the lifetime of the  
4 aggravated sex offender.

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

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

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

- 1 a. the name and physical address of the habitual or
- 2 aggravated sex offender,
- 3 b. a physical description of the habitual or aggravated
- 4 sex offender, including, but not limited to, age,
- 5 height, weight and eye and hair color,
- 6 c. a description of the vehicle that the habitual or
- 7 aggravated sex offender is known to drive,
- 8 d. any conditions or restrictions upon the probation,
- 9 parole or conditional release of the habitual or
- 10 aggravated sex offender,
- 11 e. a description of the primary and secondary targets of
- 12 the habitual or aggravated sex offender,
- 13 f. a description of the method of offense of the habitual
- 14 or aggravated sex offender,
- 15 g. a current photograph of the habitual or aggravated sex
- 16 offender,
- 17 h. the name and telephone number of the probation or
- 18 parole officer of the habitual or aggravated sex
- 19 offender, and
- 20 i. the level assignment of the person.

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

1       ~~L.~~ M. If the probation and parole officer supervising a person  
2 subject to registration receives information to the effect that the  
3 status of the person has changed in any manner that affects proper  
4 supervision of the person including, but not limited to, a change in  
5 the physical health of the person, address, employment, or  
6 educational status, higher educational status, incarceration, or  
7 terms of release, the supervising officer or administrator shall  
8 notify the appropriate local law enforcement authority or  
9 authorities of that change.

10       ~~M.~~ N. Public officials, public employees, and public agencies  
11 are immune from civil liability for good faith conduct under any  
12 provision of the Sex Offenders Registration Act.

13       1. Nothing in the Sex Offenders Registration Act shall be  
14 deemed to impose any liability upon or to give rise to a cause of  
15 action against any public official, public employee, or public  
16 agency for releasing information to the public or for failing to  
17 release information in accordance with the Sex Offenders  
18 Registration Act.

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

23       SECTION 3. This act shall become effective November 1, 2010.

1 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 3-23-10 - DO  
2 PASS, As Coauthored.