

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 1242 By: Barrington of the Senate
3 and
4 Armes of the House
5
6

7 (reimbursement of investigative costs - sentencing
8 powers of court -
9 effective date)
10
11

12 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
13 entire bill and insert

14 "An Act relating to reimbursement of investigative
15 costs; amending 22 O.S. 2011, Sections 60.1, 60.2,
16 60.3 and 60.4, which relate to the Protection From
17 Domestic Abuse Act; modifying definition; providing
18 time limitation for protective order hearing under
19 certain circumstances; prohibiting the assessment of
20 costs to plaintiff for failure to appear at
21 hearings; prohibiting courts from making certain
22 hearing requirement; directing courts to enter
23 permanent order within certain time limitation;
24 clarifying protective order terms and conditions;
authorizing service of process by private
investigators or private process servers; directing
the Administrative Director of the Courts to provide
domestic violence educational training for members
of the judiciary; amending 22 O.S. 2011, Section
991a, which relates to sentencing powers of court;
authorizing reimbursement to Attorney General of
certain costs; providing for codification; and
providing an effective date.

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

2 SECTION 1. AMENDATORY 22 O.S. 2011, Section 60.1, is
3 amended to read as follows:

4 Section 60.1 As used in the Protection from Domestic Abuse Act
5 and in the Domestic Abuse Reporting Act, Sections 40.5 through 40.7
6 of this title and Section 150.12B of Title 74 of the Oklahoma
7 Statutes:

8 1. "Domestic abuse" means any act of physical harm, or the
9 threat of imminent physical harm which is committed by an adult,
10 emancipated minor, or minor child thirteen (13) years of age or
11 older against another adult, emancipated minor or minor child who
12 are family or household members or who are or were in a dating
13 relationship;

14 2. "Stalking" means the willful, malicious, and repeated
15 following or harassment of a person by an adult, emancipated minor,
16 or minor thirteen (13) years of age or older, in a manner that would
17 cause a reasonable person to feel frightened, intimidated,
18 threatened, harassed, or molested and actually causes the person
19 being followed or harassed to feel terrorized, frightened,
20 intimidated, threatened, harassed or molested. Stalking also means
21 a course of conduct composed of a series of two or more separate
22 acts over a period of time, however short, evidencing a continuity
23 of purpose or unconsented contact with a person that is initiated or
24 continued without the consent of the individual or in disregard of

1 the expressed desire of the individual that the contact be avoided
2 or discontinued. Unconsented contact or course of conduct includes,
3 but is not limited to:

- 4 a. following or appearing within the sight of that
5 individual,
- 6 b. approaching or confronting that individual in a public
7 place or on private property,
- 8 c. appearing at the workplace or residence of that
9 individual,
- 10 d. entering onto or remaining on property owned, leased,
11 or occupied by that individual,
- 12 e. contacting that individual by telephone,
- 13 f. sending mail or electronic communications to that
14 individual, or
- 15 g. placing an object on, or delivering an object to,
16 property owned, leased or occupied by that individual;

17 3. "Harassment" means a knowing and willful course or pattern
18 of conduct by a family or household member or an individual who is
19 or has been involved in a dating relationship with the person,
20 directed at a specific person which seriously alarms or annoys the
21 person, and which serves no legitimate purpose. The course of
22 conduct must be such as would cause a reasonable person to suffer
23 substantial emotional distress, and must actually cause substantial
24 distress to the person. "Harassment" shall include, but not be

1 limited to, harassing or obscene telephone calls in violation of
2 Section 1172 of Title 21 of the Oklahoma Statutes and fear of death
3 or bodily injury;

4 4. "Family or household members" means:

- 5 a. spouses,
- 6 b. ex-spouses,
- 7 c. present spouses of ex-spouses,
- 8 d. parents, including grandparents, stepparents, adoptive
9 parents and foster parents,
- 10 e. children, including grandchildren, stepchildren,
11 adopted children and foster children,
- 12 f. persons otherwise related by blood or marriage,
- 13 g. persons living in the same household or who formerly
14 lived in the same household, and
- 15 h. persons who are the biological parents of the same
16 child, regardless of their marital status, or whether
17 they have lived together at any time. This shall
18 include the elderly and handicapped;

19 5. "Dating relationship" means a courtship ~~or~~, engagement or
20 sexual relationship, regardless of duration or frequency of contact.

21 For purposes of this act, a casual acquaintance or ordinary
22 fraternization between persons in a business or social context shall
23 not constitute a dating relationship;

1 6. "Foreign protective order" means any valid order of
2 protection issued by a court of another state or a tribal court;

3 7. "Rape" means rape and rape by instrumentation in violation
4 of Sections 1111 and 1111.1 of Title 21 of the Oklahoma Statutes;

5 8. "Victim support person" means a person affiliated with a
6 certified domestic violence or sexual assault program, certified by
7 the Attorney General or certified by a recognized Native American
8 Tribe if operating mainly within tribal lands, who provides support
9 and assistance for a person who files a petition under the
10 Protection from Domestic Violence Act; and

11 9. "Mutual protective order" means a final protective order or
12 orders issued to both a plaintiff who has filed a petition for a
13 protective order and a defendant included as the defendant in the
14 plaintiff's petition restraining the parties from committing
15 domestic violence, stalking, harassment or rape against each other.
16 If both parties allege domestic abuse, violence, stalking,
17 harassment or rape against each other, the parties shall do so by
18 separate petition pursuant to Section 60.4 of this title.

19 SECTION 2. AMENDATORY 22 O.S. 2011, Section 60.2, is
20 amended to read as follows:

21 Section 60.2 A. A victim of domestic abuse, a victim of
22 stalking, a victim of harassment, a victim of rape, any adult or
23 emancipated minor household member on behalf of any other family or
24 household member who is a minor or incompetent, or any minor age

1 sixteen (16) or seventeen (17) years may seek relief under the
2 provisions of the Protection from Domestic Abuse Act.

3 1. The person seeking relief may file a petition for a
4 protective order with the district court in the county in which the
5 victim resides, the county in which the defendant resides, or the
6 county in which the domestic violence occurred. If the person
7 seeking relief is a victim of stalking but is not a family or
8 household member or an individual who is or has been in a dating
9 relationship with the defendant, the person seeking relief must file
10 a complaint against the defendant with the proper law enforcement
11 agency before filing a petition for a protective order with the
12 district court. The person seeking relief shall provide a copy of
13 the complaint that was filed with the law enforcement agency at the
14 full hearing if the complaint is not available from the law
15 enforcement agency. Failure to provide a copy of the complaint
16 filed with the law enforcement agency shall constitute a frivolous
17 filing and the court may assess attorney fees and court costs
18 against the plaintiff pursuant to paragraph 2 of subsection C of
19 this section. The filing of a petition for a protective order shall
20 not require jurisdiction or venue of the criminal offense if either
21 the plaintiff or defendant resides in the county. If a petition has
22 been filed in an action for divorce or separate maintenance and
23 either party to the action files a petition for a protective order
24 in the same county where the action for divorce or separate

1 maintenance is filed, the petition for the protective order may be
2 heard by the court hearing the divorce or separate maintenance
3 action if:

- 4 a. there is no established protective order docket in
5 such court, or
- 6 b. the court finds that, in the interest of judicial
7 economy, both actions may be heard together; provided,
8 however, the petition for a protective order,
9 including, but not limited to, a petition in which
10 children are named as petitioners, shall remain a
11 separate action and a separate order shall be entered
12 in the protective order action no later than sixty
13 (60) days from the date of service on the defendant.

~~14 Protective orders may be dismissed in favor of
15 restraining orders in the divorce or separate
16 maintenance action if the court specifically finds,
17 upon hearing, that such dismissal is in the best
18 interests of the parties and does not compromise the
19 safety of any petitioner.~~

20 If the defendant is a minor child, the petition shall be filed
21 with the court having jurisdiction over juvenile matters.

22 2. When the abuse occurs when the court is not open for
23 business, such person may request an emergency temporary order of
24 protection as authorized by Section 40.3 of this title.

1 B. The petition forms shall be provided by the clerk of the
2 court. The Administrative Office of the Courts shall develop a
3 standard form for the petition.

4 C. 1. Except as otherwise provided by this section, no filing
5 fee, service of process fee, attorney fees or any other fee or
6 costs shall be charged the plaintiff or victim at any time for
7 filing a petition for a protective order, for requesting dismissal
8 of a protective order, or when a plaintiff or victim fails to
9 appear for a protective order hearing, whether a protective order
10 is granted or not granted. The court may assess court costs,
11 service of process fees, attorney fees, other fees and filing fees
12 against the defendant at the hearing on the petition, if a
13 protective order is granted against the defendant; provided, the
14 court shall have authority to waive the costs and fees if the court
15 finds that the party does not have the ability to pay the costs and
16 fees.

17 2. If the court makes specific findings that a petition for a
18 protective order has been filed frivolously and no victim exists,
19 the court, after providing notice of hearing to the plaintiff
20 regarding the assessment of fees and costs, may assess attorney
21 fees and court costs against the plaintiff. Failure to appear at a
22 protective order hearing shall not constitute grounds for assessing
23 costs and fees to a plaintiff.
24

1 D. The person seeking relief shall prepare the petition or, at
2 the request of the plaintiff, the court clerk or the victim-witness
3 coordinator, victim support person, and court case manager shall
4 prepare or assist the plaintiff in preparing the petition.

5 E. The person seeking a protective order may further request
6 the exclusive care, possession, or control of any animal owned,
7 possessed, leased, kept, or held by either the petitioner, defendant
8 or minor child residing in the residence of the petitioner or
9 defendant. The court may order the defendant to make no contact
10 with the animal and forbid the defendant from taking, transferring,
11 encumbering, concealing, molesting, attacking, striking,
12 threatening, harming, or otherwise disposing of the animal.

13 F. A court may not require the filing of any other action
14 including, but not limited to, divorce, separation, paternity or
15 criminal proceedings prior to hearing a petition for a protective
16 order.

17 SECTION 3. AMENDATORY 22 O.S. 2011, Section 60.3, is
18 amended to read as follows:

19 Section 60.3 A. If a plaintiff requests an emergency ex parte
20 order pursuant to Section 60.2 of this title, the court shall hold
21 an ex parte hearing on the same day the petition is filed, if the
22 court finds sufficient grounds within the scope of the Protection
23 from Domestic Abuse Act stated in the petition to hold such a
24 hearing. The court may, for good cause shown at the hearing, issue

1 any emergency ex parte order that it finds necessary to protect the
2 victim from immediate and present danger of domestic abuse,
3 stalking, or harassment. The emergency ex parte order shall be in
4 effect until after the full hearing is conducted. Provided, if the
5 defendant, after having been served, does not appear at the hearing,
6 the emergency ex parte order shall remain in effect until the
7 defendant is served with the permanent order. If the terms of the
8 permanent order are the same as those in the emergency order, or are
9 less restrictive, then it is not necessary to serve the defendant
10 with the permanent order. The Administrative Office of the Courts
11 shall develop a standard form for emergency ex parte protective
12 orders. A permanent order shall be entered in the protective order
13 action no later than one hundred eighty (180) days from the service
14 of process on the defendant.

15 B. An emergency ex parte protective order authorized by this
16 section shall include the name, sex, race, date of birth of the
17 defendant, and the dates of issue and expiration of the protective
18 order.

19 C. If a plaintiff requests an emergency temporary ex parte
20 order of protection as provided by Section 40.3 of this title, the
21 judge who is notified of the request by a peace officer may issue
22 such order verbally to the officer or in writing when there is
23 reasonable cause to believe that the order is necessary to protect
24 the victim from immediate and present danger of domestic abuse.

1 When the order is issued verbally the judge shall direct the officer
2 to complete and sign a statement attesting to the order. The
3 emergency temporary ex parte order shall be in effect until the
4 close of business on the next day the court is open for business
5 after the order is issued.

6 SECTION 4. AMENDATORY 22 O.S. 2011, Section 60.4, is
7 amended to read as follows:

8 Section 60.4 A. 1. A copy of a petition for a protective
9 order, notice of hearing and a copy of any emergency ex parte order
10 issued by the court shall be served upon the defendant in the same
11 manner as a bench warrant. In addition, if the service is to be in
12 another county, the court clerk may issue service to the sheriff by
13 facsimile or other electronic transmission for service by the
14 sheriff. Any fee for service of a petition for protective order,
15 notice of hearing, and emergency ex parte order shall only be
16 charged pursuant to subsection C of Section 60.2 of this title and,
17 if charged, shall be the same as the sheriff's service fee plus
18 mileage expenses.

19 2. Emergency ex parte orders shall be given priority for
20 service and can be served twenty-four (24) hours a day when the
21 location of the defendant is known. When service cannot be made
22 upon the defendant by the sheriff, the sheriff may contact another
23 law enforcement officer or a private investigator or private process
24 server to serve the defendant.

1 3. An emergency ex parte order, a petition for protective
2 order, and a notice of hearing shall have statewide validity and may
3 be transferred to any law enforcement jurisdiction to effect service
4 upon the defendant.

5 4. The return of service shall be submitted to the sheriff's
6 office in the court where the petition, notice of hearing or order
7 was issued.

8 5. When the defendant is a minor child who is ordered removed
9 from the residence of the victim, in addition to those documents
10 served upon the defendant, a copy of the petition, notice of hearing
11 and a copy of any ex parte order issued by the court shall be
12 delivered with the child to the caretaker of the place where such
13 child is taken pursuant to Section 2-2-101 of Title 10A of the
14 Oklahoma Statutes.

15 B. 1. Within twenty (20) days of the filing of the petition
16 for a protective order, the court shall schedule a full hearing on
17 the petition, if the court finds sufficient grounds within the scope
18 of the Protection from Domestic Abuse Act stated in the petition to
19 hold such a hearing, regardless of whether an emergency ex parte
20 order has been previously issued, requested or denied. Provided,
21 however, when the defendant is a minor child who has been removed
22 from the residence pursuant to Section 2-2-101 of Title 10A of the
23 Oklahoma Statutes, the court shall schedule a full hearing on the
24 petition within seventy-two (72) hours, regardless of whether an

1 emergency ex parte order has been previously issued, requested or
2 denied and without regard as to whether any other civil or criminal
3 action has been filed.

4 2. The court may schedule a full hearing on the petition for a
5 protective order within seventy-two (72) hours when the court issues
6 an emergency ex parte order suspending child visitation rights due
7 to physical violence or threat of abuse.

8 3. If service has not been made on the defendant at the time of
9 the hearing, the court shall, at the request of the petitioner,
10 issue a new emergency order reflecting a new hearing date and direct
11 service to issue.

12 4. A petition for a protective order shall, upon the request of
13 the petitioner, renew every twenty (20) days with a new hearing date
14 assigned until the defendant is served. A petition for a protective
15 order shall not expire unless the petitioner fails to appear at the
16 hearing or fails to request a new order. A petitioner may move to
17 dismiss the petition and emergency or final order at any time,
18 however, a protective order must be dismissed by court order.

19 5. Failure to serve the defendant shall not be grounds for
20 dismissal of a petition or an ex parte order unless the victim
21 requests dismissal or fails to appear for the hearing thereon.

22 C. 1. At the hearing, the court may impose any terms and
23 conditions in the protective order that the court reasonably
24 believes are necessary to bring about the cessation of domestic

1 abuse against the victim or stalking or harassment of the victim or
2 the immediate family of the victim ~~and~~ but shall not include any
3 parenting classes or joint counseling sessions. The court may order
4 the defendant to obtain domestic abuse counseling or treatment in a
5 program certified by the Attorney General at the expense of the
6 defendant pursuant to Section 644 of Title 21 of the Oklahoma
7 Statutes.

8 2. If the court grants a protective order and the defendant is
9 a minor child, the court shall order a preliminary inquiry in a
10 juvenile proceeding to determine whether further court action
11 pursuant to the Oklahoma Juvenile Code should be taken against a
12 juvenile defendant.

13 D. Final protective orders authorized by this section shall be
14 on a standard form developed by the Administrative Office of the
15 Courts.

16 E. 1. After notice and hearing, protective orders authorized
17 by this section may require the plaintiff or the defendant or both
18 to undergo treatment or participate in the court-approved counseling
19 services necessary to bring about cessation of domestic abuse
20 against the victim pursuant to Section 644 of Title 21 of the
21 Oklahoma Statutes but shall not include any parenting classes or
22 joint counseling sessions.

23

24

1 2. Either party or both may be required to pay all or any part
2 of the cost of such treatment or counseling services. The court
3 shall not be responsible for such cost.

4 F. When necessary to protect the victim and when authorized by
5 the court, protective orders granted pursuant to the provisions of
6 this section may be served upon the defendant by a peace officer,
7 sheriff, constable, or policeman or other officer whose duty it is
8 to preserve the peace, as defined by Section 99 of Title 21 of the
9 Oklahoma Statutes. For good cause, the court may authorize service
10 of process by a private investigator or private process server;
11 provided, that the cost be borne by the party requesting said
12 service and the private investigator or private process server be
13 directed to:

14 1. Immediately notify the sheriff of the county where the
15 petition was filed that service on the defendant was completed; and

16 2. Immediately cause the return of service to be filed with the
17 clerk of the district court.

18 G. 1. Any protective order issued on or after November 1,
19 1999, pursuant to subsection C of this section shall be for a fixed
20 period not to exceed a period of three (3) years unless extended,
21 modified, vacated or rescinded upon motion by either party or if the
22 court approves any consent agreement entered into by the plaintiff
23 and defendant; provided, if the defendant is incarcerated, the
24 protective order shall remain in full force and effect during the

1 period of incarceration. The period of incarceration, in any
2 jurisdiction, shall not be included in the calculation of the three-
3 year time limitation.

4 2. The court shall notify the parties at the time of the
5 issuance of the protective order of the duration of the protective
6 order.

7 3. Upon the filing of a motion by either party to modify,
8 extend, or vacate a protective order, a hearing shall be scheduled
9 and notice given to the parties. At the hearing, the issuing court
10 may take such action as is necessary under the circumstances.

11 4. If a child has been removed from the residence of a parent
12 or custodial adult because of domestic abuse committed by the child,
13 the parent or custodial adult may refuse the return of such child to
14 the residence unless, upon further consideration by the court in a
15 juvenile proceeding, it is determined that the child is no longer a
16 threat and should be allowed to return to the residence.

17 H. 1. It shall be unlawful for any person to knowingly and
18 willfully seek a protective order against a spouse or ex-spouse
19 pursuant to the Protection from Domestic Abuse Act for purposes of
20 harassment, undue advantage, intimidation, or limitation of child
21 visitation rights in any divorce proceeding or separation action
22 without justifiable cause.

23 2. The violator shall, upon conviction thereof, be guilty of a
24 misdemeanor punishable by imprisonment in the county jail for a

1 period not exceeding one (1) year or by a fine not to exceed Five
2 Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

3 3. A second or subsequent conviction under this subsection
4 shall be a felony punishable by imprisonment in the custody of the
5 Department of Corrections for a period not to exceed two (2) years,
6 or by a fine not to exceed Ten Thousand Dollars (\$10,000.00), or by
7 both such fine and imprisonment.

8 I. 1. A protective order issued under the Protection from
9 Domestic Abuse Act shall not in any manner affect title to real
10 property, purport to grant to the parties a divorce or otherwise
11 purport to determine the issues between the parties as to child
12 custody, visitation or visitation schedules, child support or
13 division of property or any other like relief obtainable pursuant to
14 Title 43 of the Oklahoma Statutes, except child visitation orders
15 may be temporarily suspended or modified to protect from threats of
16 abuse or physical violence by the defendant or a threat to violate a
17 custody order. Orders not affecting title may be entered for good
18 cause found to protect an animal owned by either of the parties or
19 any child living in the household.

20 2. When granting any protective order for the protection of a
21 minor child from violence or threats of abuse, the court shall allow
22 visitation only under conditions that provide adequate supervision
23 and protection to the child while maintaining the integrity of a
24 divorce decree or temporary order.

1 J. 1. A court shall not issue any mutual protective orders.

2 2. If both parties allege domestic abuse by the other party,
3 the parties shall do so by separate petitions. The court shall
4 review each petition separately in an individual or a consolidated
5 hearing and grant or deny each petition on its individual merits.
6 If the court finds cause to grant both motions, the court shall do
7 so by separate orders and with specific findings justifying the
8 issuance of each order.

9 3. The court may only consolidate a hearing if:

10 a. the court makes specific findings that:

11 (1) sufficient evidence exists of domestic abuse,
12 stalking, harassment or rape against each party,
13 and

14 (2) each party acted primarily as aggressors, and

15 b. the defendant filed a petition with the court for a
16 protective order no less than three (3) days, not
17 including weekends or holidays, prior to the first
18 scheduled full hearing on the petition filed by the
19 plaintiff, and

20 c. the defendant had no less than forty-eight (48) hours'
21 notice prior to the full hearing on the petition filed
22 by the plaintiff.

23 K. The court may allow a plaintiff or victim to be accompanied
24 by a victim support person at court proceedings. A victim support

1 person shall not make legal arguments; however, a victim support
2 person who is not a licensed attorney may offer the plaintiff or
3 victim comfort or support and may remain in close proximity to the
4 plaintiff or victim.

5 SECTION 5. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 60.20 of Title 22, unless there
7 is created a duplication in numbering, reads as follows:

8 The Administrative Office of the Courts shall provide
9 appropriate annual domestic violence educational training for
10 members of the judiciary.

11 SECTION 6. AMENDATORY 22 O.S. 2011, Section 991a, is
12 amended to read as follows:

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

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

21 a. to provide restitution to the victim as provided by
22 Section 991f et seq. of this title or according to a
23 schedule of payments established by the sentencing
24 court, together with interest upon any pecuniary sum

1 at the rate of twelve percent (12%) per annum, if the
2 defendant agrees to pay such restitution or, in the
3 opinion of the court, if the defendant is able to pay
4 such restitution without imposing manifest hardship on
5 the defendant or the immediate family and if the
6 extent of the damage to the victim is determinable
7 with reasonable certainty,

8 b. to reimburse any state agency for amounts paid by the
9 state agency for hospital and medical expenses
10 incurred by the victim or victims, as a result of the
11 criminal act for which such person was convicted,
12 which reimbursement shall be made directly to the
13 state agency, with interest accruing thereon at the
14 rate of twelve percent (12%) per annum,

15 c. to engage in a term of community service without
16 compensation, according to a schedule consistent with
17 the employment and family responsibilities of the
18 person convicted,

19 d. to pay a reasonable sum into any trust fund,
20 established pursuant to the provisions of Sections 176
21 through 180.4 of Title 60 of the Oklahoma Statutes,
22 and which provides restitution payments by convicted
23 defendants to victims of crimes committed within this
24

1 state wherein such victim has incurred a financial
2 loss,

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

5 f. to confinement as provided by law together with a term
6 of post-imprisonment community supervision for not
7 less than three (3) years of the total term allowed by
8 law for imprisonment, with or without restitution;
9 provided, however, the authority of this provision is
10 limited to Section 843.5 of Title 21 of the Oklahoma
11 Statutes when the offense involved sexual abuse or
12 sexual exploitation; Sections 681, 741 and 843.1 of
13 Title 21 of the Oklahoma Statutes when the offense
14 involved sexual abuse or sexual exploitation; and
15 Sections 865 et seq., 885, 886, 888, 891, 1021,
16 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and
17 1123 of Title 21 of the Oklahoma Statutes,

18 g. to repay the reward or part of the reward paid by a
19 local certified crime stoppers program and the
20 Oklahoma Reward System. In determining whether the
21 defendant shall repay the reward or part of the
22 reward, the court shall consider the ability of the
23 defendant to make the payment, the financial hardship
24 on the defendant to make the required payment, and the

1 importance of the information to the prosecution of
2 the defendant as provided by the arresting officer or
3 the district attorney with due regard for the
4 confidentiality of the records of the local certified
5 crime stoppers program and the Oklahoma Reward System.
6 The court shall assess this repayment against the
7 defendant as a cost of prosecution. The term
8 "certified" means crime stoppers organizations that
9 annually meet the certification standards for crime
10 stoppers programs established by the Oklahoma Crime
11 Stoppers Association to the extent those standards do
12 not conflict with state statutes. The term "court"
13 refers to all municipal and district courts within
14 this state. The "Oklahoma Reward System" means the
15 reward program established by Section 150.18 of Title
16 74 of the Oklahoma Statutes,

17 h. to reimburse the Oklahoma State Bureau of
18 Investigation for costs incurred by that agency during
19 its investigation of the crime for which the defendant
20 pleaded guilty, nolo contendere or was convicted,
21 including compensation for laboratory, technical, or
22 investigation services performed by the Bureau if, in
23 the opinion of the court, the defendant is able to pay
24 without imposing manifest hardship on the defendant,

1 and if the costs incurred by the Bureau during the
2 investigation of the defendant's case may be
3 determined with reasonable certainty,

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

18 j. to pay a reasonable sum to the Crime Victims
19 Compensation Board, created by ~~Section 142.2 et seq.~~
20 ~~of Title 21 of the Oklahoma Statutes~~ the Oklahoma
21 Crime Victims Compensation Act, for the benefit of
22 crime victims,
23
24

- 1 k. to reimburse the court fund for amounts paid to court-
2 appointed attorneys for representing the defendant in
3 the case in which the person is being sentenced,
- 4 l. to participate in an assessment and evaluation by an
5 assessment agency or assessment personnel certified by
6 the Department of Mental Health and Substance Abuse
7 Services pursuant to Section 3-460 of Title 43A of the
8 Oklahoma Statutes and, as determined by the
9 assessment, participate in an alcohol and drug
10 substance abuse course or treatment program or both,
11 pursuant to Sections 3-452 and 3-453 of Title 43A of
12 the Oklahoma Statutes, or as ordered by the court,
- 13 m. to be placed in a victims impact panel program or
14 victim/offender reconciliation program and payment of
15 a fee to the program of not less than Fifteen Dollars
16 (\$15.00) nor more than Fifty Dollars (\$50.00) as set
17 by the governing authority of the program to offset
18 the cost of participation by the defendant. Provided,
19 each victim/offender reconciliation program shall be
20 required to obtain a written consent form voluntarily
21 signed by the victim and defendant that specifies the
22 methods to be used to resolve the issues, the
23 obligations and rights of each person, and the
24 confidentiality of the proceedings. Volunteer

1 mediators and employees of a victim/offender
2 reconciliation program shall be immune from liability
3 and have rights of confidentiality as provided in
4 Section 1805 of Title 12 of the Oklahoma Statutes,
5 n. to install, at the expense of the defendant, an
6 ignition interlock device approved by the Board of
7 Tests for Alcohol and Drug Influence. The device
8 shall be installed upon every motor vehicle operated
9 by the defendant, and the court shall require that a
10 notation of this restriction be affixed to the
11 defendant's driver license. The restriction shall
12 remain on the driver license not exceeding two (2)
13 years to be determined by the court. The restriction
14 may be modified or removed only by order of the court
15 and notice of any modification order shall be given to
16 the Department of Public Safety. Upon the expiration
17 of the period for the restriction, the Department of
18 Public Safety shall remove the restriction without
19 further court order. Failure to comply with the order
20 to install an ignition interlock device or operating
21 any vehicle without a device during the period of
22 restriction shall be a violation of the sentence and
23 may be punished as deemed proper by the sentencing
24 court. As used in this paragraph, "ignition interlock

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

6 o. to be confined by electronic monitoring administered
7 and supervised by the Department of Corrections or a
8 community sentence provider, and payment of a
9 monitoring fee to the supervising authority, not to
10 exceed Three Hundred Dollars (\$300.00) per month. Any
11 fees collected pursuant to this paragraph shall be
12 deposited with the appropriate supervising authority.
13 Any willful violation of an order of the court for the
14 payment of the monitoring fee shall be a violation of
15 the sentence and may be punished as deemed proper by
16 the sentencing court. As used in this paragraph,
17 "electronic monitoring" means confinement of the
18 defendant within a specified location or locations
19 with supervision by means of an electronic device
20 approved by the Department of Corrections which is
21 designed to detect if the defendant is in the court-
22 ordered location at the required times and which
23 records violations for investigation by a qualified
24 supervisory agency or person,

- 1 p. to perform one or more courses of treatment, education
2 or rehabilitation for any conditions, behaviors,
3 deficiencies or disorders which may contribute to
4 criminal conduct, including but not limited to alcohol
5 and substance abuse, mental health, emotional health,
6 physical health, propensity for violence, antisocial
7 behavior, personality or attitudes, deviant sexual
8 behavior, child development, parenting assistance, job
9 skills, vocational-technical skills, domestic
10 relations, literacy, education, or any other
11 identifiable deficiency which may be treated
12 appropriately in the community and for which a
13 certified provider or a program recognized by the
14 court as having significant positive impact exists in
15 the community. Any treatment, education or
16 rehabilitation provider required to be certified
17 pursuant to law or rule shall be certified by the
18 appropriate state agency or a national organization,
- 19 q. to submit to periodic testing for alcohol,
20 intoxicating substance, or controlled dangerous
21 substances by a qualified laboratory,
- 22 r. to pay a fee, costs for treatment, education,
23 supervision, participation in a program, or any
24

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

1 community. Day fines shall be used to support the
2 local system,

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

5 aa. to repair or restore property damaged by the
6 defendant's conduct, if the court determines the
7 defendant possesses sufficient skill to repair or
8 restore the property and the victim consents to the
9 repairing or restoring of the property,

10 bb. to restore damaged property in kind or payment of out-
11 of-pocket expenses to the victim, if the court is able
12 to determine the actual out-of-pocket expenses
13 suffered by the victim,

14 cc. to attend a victim-offender reconciliation program if
15 the victim agrees to participate and the offender is
16 deemed appropriate for participation,

17 dd. in the case of a person convicted of prostitution
18 pursuant to Section 1029 of Title 21 of the Oklahoma
19 Statutes, require such person to receive counseling
20 for the behavior which may have caused such person to
21 engage in prostitution activities. Such person may be
22 required to receive counseling in areas including but
23 not limited to alcohol and substance abuse, sexual
24

1 behavior problems, or domestic abuse or child abuse
2 problems,

3 ee. in the case of a sex offender sentenced after November
4 1, 1989, and required by law to register pursuant to
5 the Sex Offender Registration Act, the court shall
6 require the person to comply with sex offender
7 specific rules and conditions of supervision
8 established by the Department of Corrections and
9 require the person to participate in a treatment
10 program designed for the treatment of sex offenders
11 during the period of time while the offender is
12 subject to supervision by the Department of
13 Corrections. The treatment program shall include
14 polygraph examinations specifically designed for use
15 with sex offenders for purposes of supervision and
16 treatment compliance, and shall be administered not
17 less than each six (6) months during the period of
18 supervision. The examination shall be administered by
19 a certified licensed polygraph examiner. The
20 treatment program must be approved by the Department
21 of Corrections or the Department of Mental Health and
22 Substance Abuse Services. Such treatment shall be at
23 the expense of the defendant based on the defendant's
24 ability to pay,

1 ff. in addition to other sentencing powers of the court,
2 the court in the case of a defendant being sentenced
3 for a felony conviction for a violation of Section 2-
4 402 of Title 63 of the Oklahoma Statutes which
5 involves marijuana may require the person to
6 participate in a drug court program, if available. If
7 a drug court program is not available, the defendant
8 may be required to participate in a community
9 sanctions program, if available,

10 gg. in the case of a person convicted of any false or
11 bogus check violation, as defined in Section 1541.4 of
12 Title 21 of the Oklahoma Statutes, impose a fee of
13 Twenty-five Dollars (\$25.00) to the victim for each
14 check, and impose a bogus check fee to be paid to the
15 district attorney. The bogus check fee paid to the
16 district attorney shall be equal to the amount
17 assessed as court costs plus Twenty-five Dollars
18 (\$25.00) for each check upon filing of the case in
19 district court. This money shall be deposited in the
20 Bogus Check Restitution Program Fund as established in
21 subsection B of Section 114 of this title.
22 Additionally, the court may require the offender to
23 pay restitution and bogus check fees on any other
24

1 bogus check or checks that have been submitted to the
2 District Attorney Bogus Check Restitution Program, and
3 hh. any other provision specifically ordered by the court.

4 However, any such order for restitution, community service,
5 payment to a local certified crime stoppers program, payment to the
6 Oklahoma Reward System, or confinement in the county jail, or a
7 combination thereof, shall be made in conjunction with probation and
8 shall be made a condition of the suspended sentence;

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

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

15 4. a. Order the defendant to reimburse the Oklahoma State
16 Bureau of Investigation for costs incurred by that
17 agency during its investigation of the crime for which
18 the defendant pleaded guilty, nolo contendere or was
19 convicted, including compensation for laboratory,
20 technical, or investigation services performed by the
21 Bureau if, in the opinion of the court, the defendant
22 is able to pay without imposing manifest hardship on
23 the defendant, and if the costs incurred by the Bureau

1 during the investigation of the defendant's case may
2 be determined with reasonable certainty; or

3 b. Order the defendant to reimburse the Oklahoma Attorney
4 General for costs incurred by that agency during its
5 investigation of the crime for which the defendant
6 pleaded guilty, nolo contendere or was convicted if,
7 in the opinion of the court, the defendant is able to
8 pay without imposing manifest hardship on the
9 defendant, and if the costs incurred by the Attorney
10 General during the investigation of the defendant's
11 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
24

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
24 restriction shall be a violation of the sentence and

1 may be punished as deemed proper by the sentencing
2 court, or

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

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

23 9. In addition to the other sentencing powers of the court, in
24 the case of a person convicted of any crime related to domestic

1 abuse, as defined in Section 60.1 of this title, the court may
2 require the defendant to undergo the treatment or participate in the
3 counseling services necessary to bring about the cessation of
4 domestic abuse against the victim. The defendant may be required to
5 pay all or part of the cost of the treatment or counseling services;

6 10. In addition to the other sentencing powers of the court,
7 the court, in the case of a sex offender sentenced after November 1,
8 1989, and required by law to register pursuant to the Sex Offenders
9 Registration Act, shall require the person to participate in a
10 treatment program designed specifically for the treatment of sex
11 offenders, if available. The treatment program will include
12 polygraph examinations specifically designed for use with sex
13 offenders for the purpose of supervision and treatment compliance,
14 provided the examination is administered by a certified licensed
15 polygraph examiner. The treatment program must be approved by the
16 Department of Corrections or the Department of Mental Health and
17 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,
20 the court, in the case of a person convicted of child abuse or
21 neglect, as defined in Section 1-1-105 of Title 10A of the Oklahoma
22 Statutes, may require the person to undergo treatment or to
23 participate in counseling services. The defendant may be required
24

1 to pay all or part of the cost of the treatment or counseling
2 services;

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

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

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

24

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

9 B. Notwithstanding any other provision of law, any person who
10 is found guilty of a violation of any provision of Section 761 or
11 11-902 of Title 47 of the Oklahoma Statutes or any person pleading
12 guilty or nolo contendere for a violation of any provision of such
13 sections shall be ordered to participate in, prior to sentencing, an
14 alcohol and drug assessment and evaluation by an assessment agency
15 or assessment personnel certified by the Department of Mental Health
16 and Substance Abuse Services for the purpose of evaluating the
17 receptivity to treatment and prognosis of the person. The court
18 shall order the person to reimburse the agency or assessor for the
19 evaluation. The fee shall be the amount provided in subsection C of
20 Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation
21 shall be conducted at a certified assessment agency, the office of a
22 certified assessor or at another location as ordered by the court.
23 The agency or assessor shall, within seventy-two (72) hours from the
24 time the person is assessed, submit a written report to the court

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

23 C. When sentencing a person convicted of a crime, the court
24 shall first consider a program of restitution for the victim, as

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

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

22 E. Probation, for purposes of subsection A of this section, is
23 a procedure by which a defendant found guilty of a crime, whether
24 upon a verdict or plea of guilty or upon a plea of nolo contendere,

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

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

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

24

1 2. Any offender eligible to participate in the Program pursuant
2 to ~~this act~~ the Elderly and Incapacitated Victim's Protection
3 Program shall be eligible to participate in a county Program;
4 provided, participation in county-funded Programs shall not be
5 limited to offenders who would otherwise be sentenced to confinement
6 with the Department of Corrections.

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

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

21 5. The Department shall annually make a report to the Governor,
22 the President Pro Tempore of the Senate and the Speaker of the House
23 on the number of such Programs, the number of participating
24

1 offenders, the success rates of each Program according to criteria
2 established by the Department and the costs of each Program.

3 H. As used in this section:

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

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

14 I. A person convicted of a felony offense or receiving any form
15 of probation for an offense in which registration is required
16 pursuant to the Sex Offenders Registration Act, shall submit to
17 deoxyribonucleic acid DNA testing for law enforcement identification
18 purposes in accordance with Section 150.27 of Title 74 of the
19 Oklahoma Statutes and the rules promulgated by the Oklahoma State
20 Bureau of Investigation for the OSBI Combined DNA Index System
21 (CODIS) Database. Subject to the availability of funds, any person
22 convicted of a misdemeanor offense of assault and battery, domestic
23 abuse, stalking, possession of a controlled substance prohibited
24 under Schedule IV of the Uniform Controlled Dangerous Substances

1 Act, outraging public decency, resisting arrest, escape or
2 attempting to escape, eluding a police officer, peeping tom,
3 pointing a firearm, unlawful carry of a firearm, illegal transport
4 of a firearm, discharging of a firearm, threatening an act of
5 violence, breaking and entering a dwelling place, destruction of
6 property, negligent homicide, or causing a personal injury accident
7 while driving under the influence of any intoxicating substance, or
8 any alien unlawfully present under federal immigration law, upon
9 arrest, shall submit to deoxyribonucleic acid DNA testing for law
10 enforcement identification purposes in accordance with Section
11 150.27 of Title 74 of the Oklahoma Statutes and the rules
12 promulgated by the Oklahoma State Bureau of Investigation for the
13 OSBI Combined DNA Index System (CODIS) Database. Any defendant
14 sentenced to probation shall be required to submit to testing within
15 thirty (30) days of sentencing either to the Department of
16 Corrections or to the county sheriff or other peace officer as
17 directed by the court. Defendants who are sentenced to a term of
18 incarceration shall submit to testing in accordance with Section
19 530.1 of Title 57 of the Oklahoma Statutes, for those defendants who
20 enter the custody of the Department of Corrections or to the county
21 sheriff, for those defendants sentenced to incarceration in a county
22 jail. Convicted individuals who have previously submitted to DNA
23 testing under this section and for whom a valid sample is on file in
24 the OSBI Combined DNA Index System (CODIS) Database at the time of

1 sentencing shall not be required to submit to additional testing.
2 Except as required by the Sex Offenders Registration Act, a deferred
3 judgment does not require submission to deoxyribonucleic acid
4 testing.

5 Any person who is incarcerated in the custody of the Department
6 of Corrections after July 1, 1996, and who has not been released
7 before January 1, 2006, shall provide a blood or saliva sample prior
8 to release. Every person subject to DNA testing after January 1,
9 2006, whose sentence does not include a term of confinement with the
10 Department of Corrections shall submit a blood or saliva sample.
11 Every person subject to DNA testing who is sentenced to unsupervised
12 probation or otherwise not supervised by the Department of
13 Corrections shall submit for blood or saliva testing to the sheriff
14 of the sentencing county.

15 J. Samples of blood or saliva for DNA testing required by
16 subsection I of this section shall be taken by employees or
17 contractors of the Department of Corrections, peace officers, or the
18 county sheriff or employees or contractors of the sheriff's office.
19 The individuals shall be properly trained to collect blood or saliva
20 samples. Persons collecting blood or saliva for DNA testing
21 pursuant to this section shall be immune from civil liabilities
22 arising from this activity. All collectors of DNA samples shall
23 ensure the collection of samples are mailed to the Oklahoma State
24 Bureau of Investigation within ten (10) days of the time the subject

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

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

17 SECTION 7. This act shall become effective November 1, 2012.”
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