

**COMMITTEE AMENDMENT**  
HOUSE OF REPRESENTATIVES  
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3052 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Adopted: \_\_\_\_\_

Amendment submitted by: Kris Steele

\_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 PROPOSED COMMITTEE  
4 SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 3052

By: Steele

7 PROPOSED COMMITTEE SUBSTITUTE

8 An Act relating to corrections; amending 21 O.S.  
9 2011, Section 13.1, which relates to required service  
10 of prison sentence; modifying eligibility  
11 requirements for earned credits; requiring certain  
12 persons to participate in an assessment and  
13 evaluation; providing access to assessment results;  
14 directing use of assessment results for sentencing  
15 options; amending 22 O.S. 2011, Section 471.2, which  
16 relates to the Oklahoma Drug Court Act; providing for  
17 the use of intermediate revocation facilities;  
18 amending 22 O.S. 2011, Section 982a, which relates to  
19 judicial reviews; increasing time limitation for  
20 requesting sentence modification; requiring approval  
21 by the district attorney under certain circumstances;  
22 requiring mandatory term of post-imprisonment  
23 supervision; establishing time limitation for post-  
24 imprisonment supervision; providing exceptions to  
post-imprisonment supervision requirement; amending  
22 O.S. 2011, Section 991b, which relates to  
revocation proceedings; modifying intermediate  
sanctions process; amending 57 O.S. 2011, Section  
138, which relates to earned credit eligibility  
requirements; prohibiting certain persons from  
accumulating earned credits; amending 57 O.S. 2011,  
Sections 502 and 517, which relate to the Oklahoma  
Corrections Act of 1967; defining terms; modifying  
circumstances that allow the revocation of probation;  
providing procedures for intermediate revocation  
facility placement; stating authorization for  
district attorney to initiate revocation proceedings;  
authorizing the Department of Corrections to  
establish intermediate revocation facilities for  
certain persons; establishing time limitation for  
confinement in facility; prohibiting offenders from

1 receiving earned credits; amending 63 O.S. 2011,  
2 Section 2-402, which relates to the Uniform  
3 Controlled Dangerous Substances Act; modifying  
4 penalties for certain crimes; creating the Justice  
5 Reinvestment Grant Program; authorizing the Attorney  
6 General to award competitive grants to local law  
7 enforcement agencies; directing use of funds;  
8 providing eligibility requirements; directing the  
9 Attorney General to publish guidelines and  
10 application; authorizing the Attorney General to  
11 adopt rules and procedures; providing authority to  
12 the Office of the Attorney General to collect certain  
13 information; making data and information collected  
14 confidential; prohibiting disclosure of identifying  
15 information; directing certain entities to submit  
16 specified information to the Attorney General;  
17 directing the Attorney General to include certain  
18 information in report; directing the Attorney General  
19 to provide copy of report to certain persons;  
20 providing for codification; and providing an  
21 effective date.

22  
23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

24 SECTION 1. AMENDATORY 21 O.S. 2011, Section 13.1, is  
amended to read as follows:

Section 13.1 Persons convicted of:

1. First degree murder as defined in Section 701.7 of this  
title;
2. Second degree murder as defined by Section 701.8 of this  
title;
3. Manslaughter in the first degree as defined by Section 711  
of this title;
4. Poisoning with intent to kill as defined by Section 651 of  
this title;

- 1       5. Shooting with intent to kill, use of a vehicle to facilitate  
2 use of a firearm, crossbow or other weapon, assault, battery, or  
3 assault and battery with a deadly weapon or by other means likely to  
4 produce death or great bodily harm, as provided for in Section 652  
5 of this title;
- 6       6. Assault with intent to kill as provided for in Section 653  
7 of this title;
- 8       7. Conjoint robbery as defined by Section 800 of this title;
- 9       8. Robbery with a dangerous weapon as defined in Section 801 of  
10 this title;
- 11       9. First degree robbery as defined in Section 797 of this  
12 title;
- 13       10. First degree rape as provided for in Section 1115 of this  
14 title;
- 15       11. First degree arson as defined in Section 1401 of this  
16 title;
- 17       12. First degree burglary as provided for in Section 1436 of  
18 this title;
- 19       13. Bombing as defined in Section 1767.1 of this title;
- 20       14. Any crime against a child provided for in Section 843.5 of  
21 this title;
- 22       15. Forcible sodomy as defined in Section 888 of this title;
- 23       16. Child pornography as defined in Section 1021.2, 1021.3 or  
24 1024.1 of this title;

1 17. Child prostitution as defined in Section 1030 of this  
2 title;

3 18. Lewd molestation of a child as defined in Section 1123 of  
4 this title;

5 19. Abuse of a vulnerable adult as defined in Section 10-103 of  
6 Title 43A of the Oklahoma Statutes who is a resident of a nursing  
7 facility;

8 20. Aggravated trafficking as provided for in subsection C of  
9 Section 2-415 of Title 63 of the Oklahoma Statutes; or

10 21. Aggravated assault and battery upon any person defending  
11 another person from assault and battery,  
12 shall be required to serve not less than eighty-five percent (85%)  
13 of any sentence of imprisonment imposed by the judicial system prior  
14 to becoming eligible for consideration for parole. ~~Persons~~  
15 ~~convicted of these offenses shall not be eligible for~~ or for  
16 receiving earned credits or any other type of credits which have the  
17 effect of reducing the length of ~~the sentence to less than~~ imposed.  
18 Beginning January 1, 2013, the Department of Corrections shall keep  
19 an accounting of the earned credits of the inmate during  
20 incarceration and shall, in the discretion of the Director, apply  
21 said credits when eighty-five percent (85%) of the sentence imposed  
22 has been served. Granting of the credits shall be solely in the  
23 discretion of the Director based on institutional behavior and the  
24

1 total credits granted shall not be more than fifteen percent (15%)  
2 of the total sentence.

3 SECTION 2. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 210 of Title 22, unless there is  
5 created a duplication in numbering, reads as follows:

6 When a person is arrested for a felony offense and is taken into  
7 custody, the person shall be required to submit to an approved risk,  
8 mental health and substance abuse assessment and evaluation which  
9 shall be administered and scored by assessment personnel certified  
10 by the Department of Mental Health and Substance Abuse Services.  
11 Any person lacking sufficient skills to comprehend or otherwise  
12 participate in the risk, mental health and substance abuse  
13 assessment and evaluation shall have appropriate assistance. The  
14 court, district attorney, arrested person and counsel for the  
15 arrested person shall have access to the results of the risk, mental  
16 health and substance abuse assessment and evaluation. The results  
17 of the risk, mental health and substance abuse assessment and  
18 evaluation shall not be admissible as evidence in the criminal case  
19 unless specifically waived by the defendant or for purposes of  
20 determining sentencing options for a defendant who has pled guilty  
21 and punishment is to be determined at the discretion of the court.  
22 The court and the district attorney shall consider the results of  
23 the risk, mental health and substance abuse assessment and  
24 evaluation to determine sentencing options for the person.

1 SECTION 3. AMENDATORY 22 O.S. 2011, Section 471.2, is  
2 amended to read as follows:

3 Section 471.2 A. The initial opportunity for review of an  
4 offender for a drug court program shall occur within four (4) days  
5 after the arrest and detention or incarceration of the offender in  
6 the city or county jail, or if an immediate bond release program is  
7 available through the jail, the initial opportunity for review shall  
8 occur in conjunction with the bond release program. When a drug  
9 court is established, the following information shall be initially  
10 reviewed by the sheriff or designee, if the offender is held in a  
11 county jail, or by the chief of police or designee, if the offender  
12 is held in a city jail:

13 1. The offender's arrest or charge does not involve a crime of  
14 violence against any person, unless there is a specific treatment  
15 program in the jurisdiction designed to address domestic violence  
16 and the offense is related to domestic violence and substance abuse;

17 2. The offender has no prior felony conviction in this state or  
18 another state for a violent offense within the last ten (10) years,  
19 except as may be allowed in a domestic violence treatment program  
20 authorized by the drug court program. It shall be sufficient for  
21 this paragraph that a criminal history records name search was  
22 conducted and indicated no apparent violent offense;

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1 3. The offender's arrest or charge does not involve a violation  
2 of the Trafficking In Illegal Drugs Act, Section 2-414 et seq. of  
3 Title 63 of the Oklahoma Statutes;

4 4. The offender has committed a felony offense; and

5 5. The offender:

6 a. admits to having a substance abuse addiction,

7 b. appears to have a substance abuse addiction,

8 c. is known to have a substance abuse addiction, or

9 d. the arrest or charge is based upon an offense eligible  
10 for the drug court program.

11 B. If it appears to the reviewing officer that the offender may  
12 be potentially eligible for the drug court program based upon a  
13 review of the information in subsection A of this section, the  
14 offender shall be given an eligibility form which may be voluntarily  
15 completed by the offender, and the reviewing officer shall file the  
16 criminal case record within the time prescribed in subsection E of  
17 Section ~~2~~ 471.1 of this ~~act~~ title. The offender shall not  
18 automatically be considered for the program based upon this review.  
19 The offender must request consideration for the drug court program  
20 as provided in subsection C of this section and shall have approval  
21 from the district attorney before being considered for the drug  
22 court program. The eligibility form shall describe the drug court  
23 program for which the offender may be eligible, including, but not  
24 limited to:



- 1        1. A full description of the drug court process and  
2 investigation;
- 3        2. A general explanation of the roles and authority of the  
4 supervising staff, the district attorney, the defense attorney, the  
5 treatment provider, the offender, and the judge in the drug court  
6 program;
- 7        3. A clear statement that the drug court judge may decide after  
8 a hearing not to consider the offender for the drug court program  
9 and in that event the offender will be prosecuted in the traditional  
10 manner;
- 11       4. A clear statement that the offender is required, before  
12 consideration in the program, to enter a guilty plea as part of a  
13 written plea agreement;
- 14       5. A clear statement that the plea agreement will specify the  
15 offense to which the guilty plea will be entered and will state any  
16 penalty to be imposed for the offense, both in the event of a  
17 successful completion of the drug court program, and in the event of  
18 a failure to complete the program;
- 19       6. A clear statement that the offender must voluntarily agree  
20 to:
  - 21           a. waive the right to a speedy trial,
  - 22           b. waive the right to a preliminary hearing,
  - 23           c. the terms and conditions of a treatment plan, and
  - 24           d. sign a performance contract with the court;

1 7. A clear statement that the offender, if accepted into the  
2 drug court program, may not be incarcerated for the offense in a  
3 state correctional institution or jail upon successful completion of  
4 the program;

5 8. A clear statement that during participation in the drug  
6 court program should the offender fail to comply with the terms of  
7 the agreement, the offender may be sanctioned to serve a term of  
8 confinement of six (6) months in an intermediate revocation facility  
9 operated by the Department of Corrections. An offender shall not be  
10 allowed to serve more than two separate terms of confinement in an  
11 intermediate revocation facility;

12 9. A clear statement that during participation in the drug  
13 court program should the offender:

- 14 a. fail to comply with the terms of the agreements,
- 15 b. be convicted of a misdemeanor offense which reflects a  
16 propensity for violence,
- 17 c. be arrested for a violent felony offense, or
- 18 d. be convicted of any felony offense,

19 the offender may be required, after a court hearing, to be revoked  
20 from the program and sentenced without trial pursuant to the  
21 punishment provisions of the negotiated plea agreement; and

22 ~~9.~~ 10. An explanation of the criminal record retention and  
23 disposition resulting from participation in the drug court program  
24 following successful completion of the program.

1 C. 1. The offender may request consideration for the drug  
2 court program as follows:

3 a. if the offender is incarcerated, the offender must  
4 sign and complete the eligibility form and return it  
5 to the sheriff, if the offender is held in the county  
6 jail; or to the chief of police, if the offender is  
7 held in a city jail. The sheriff or chief of police,  
8 upon receipt of the eligibility form, shall file the  
9 form with the district attorney at the time of filing  
10 the criminal case record or at any time during the  
11 period of incarceration when the offender completes  
12 the form after the criminal case record has been  
13 filed, or

14 b. after release of the offender from incarceration, the  
15 offender must sign and complete the eligibility form  
16 and file it with the district attorney or the court,  
17 prior to or at the time of either initial appearance  
18 or arraignment.

19 2. Any offender desiring legal consultation prior to signing or  
20 completing the form for consideration in a drug court program shall  
21 be referred to the defense attorney of the drug court team, or a  
22 public defender, if the offender is indigent, or allowed to consult  
23 with private legal counsel.  
24

1 3. Nothing contained in the provisions of this subsection shall  
2 prohibit the drug court from considering any offender deemed  
3 eligible for the program at any time prior to sentencing whose case  
4 has been prosecuted in the traditional manner, or upon a violation  
5 of parole or probation conditions relating to substance abuse, upon  
6 recommendation of the district attorney as provided in Section ~~9~~  
7 471.8 of this ~~act~~ title.

8 D. When an offender has filed a voluntary request to be  
9 considered for a drug court program on the appropriate form, the  
10 district attorney shall indicate his or her approval of the request  
11 by filing the form with the drug court judge. Upon the filing of  
12 the request form by the district attorney, an initial hearing shall  
13 be set before the drug court judge. The hearing shall be not less  
14 than three (3) work days nor more than five (5) work days after the  
15 date of the filing of the request form. Notice of the hearing shall  
16 be given to the drug court team, or in the event no drug court team  
17 is designated, to the offender, the district attorney, and to the  
18 public defender. The offender shall be required to notify any  
19 private legal counsel of the date and time of the hearing.

20 SECTION 4. AMENDATORY 22 O.S. 2011, Section 982a, is  
21 amended to read as follows:

22 Section 982a. A. Any time within ~~twelve (12)~~ twenty-four (24)  
23 months after ~~a~~ the initial sentence is imposed or within ~~twelve (12)~~  
24 twenty-four (24) months after probation has been revoked, the court

1 imposing sentence or revocation of probation may modify such  
2 sentence or revocation by directing that another sentence be  
3 imposed, if the court is satisfied that the best interests of the  
4 public will not be jeopardized; provided, however, the court shall  
5 not impose a deferred sentence. Any application for sentence  
6 modification that is filed and ruled upon beyond twelve (12) months  
7 of the initial sentence being imposed must be approved by the  
8 district attorney. This section shall not apply to convicted felons  
9 who have been in confinement in any state or federal prison system  
10 for any previous felony conviction during the ten-year period  
11 preceding the date that the sentence this section applies to was  
12 imposed. Further, without the consent of the district attorney,  
13 this section shall not apply to sentences imposed pursuant to a plea  
14 agreement or jury verdict.

15 B. For purposes of judicial review, upon court order or written  
16 request from the sentencing judge, the Department of Corrections  
17 shall provide the court imposing sentence or revocation of probation  
18 with a report to include a summary of the offender's assessed needs,  
19 any progress made by the offender in addressing his or her assessed  
20 needs, and any other information the Department can supply on the  
21 inmate. The court shall consider such reports when modifying the  
22 sentence or revocation of probation. The court shall allow the  
23 Department of Corrections at least twenty (20) days after receipt of  
24 a request or order from the court to prepare the required reports.

1 C. If the court considers modification of the sentence or  
2 revocation of probation, a hearing shall be made in open court after  
3 receipt of the reports required in subsection B of this section.  
4 The clerk of the court imposing sentence or revocation of probation  
5 shall give notice of the judicial review hearing to the Department  
6 of Corrections, the inmate, the inmate's legal counsel, and the  
7 district attorney of the county in which the inmate was convicted  
8 upon receipt of the reports. Such notice shall be mailed at least  
9 twenty-one (21) days prior to the hearing date and shall include a  
10 copy of the report and any other written information to be  
11 considered at the judicial review hearing.

12 D. If an appeal is taken from the original sentence or from a  
13 revocation of probation which results in a modification of the  
14 sentence or modification to the revocation of probation of the  
15 defendant, such sentence may be further modified in the manner  
16 ~~hereinbefore~~ described in subsection A of this section within ~~twelve~~  
17 ~~(12)~~ twenty-four (24) months after the receipt by the clerk of the  
18 district court of the mandate from the Supreme Court or the Court of  
19 Criminal Appeals.

20 SECTION 5. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 991a-21 of Title 22, unless  
22 there is created a duplication in numbering, reads as follows:

23 A. Beginning November 1, 2012, the court shall include in the  
24 sentence of any person who is convicted of a felony and sentenced to

1 a term of confinement with the Department of Corrections, as  
2 provided in Section 991a of Title 22 of the Oklahoma Statutes or any  
3 other provision of the Oklahoma Statutes, a term of post-  
4 imprisonment supervision. The post-imprisonment supervision shall  
5 be for a period of not less than nine (9) months nor more than one  
6 (1) year following confinement of the person and shall be served  
7 under conditions prescribed by the Department of Corrections. The  
8 term of confinement plus the period of post-imprisonment supervision  
9 shall not exceed the expiration of the maximum term of confinement  
10 provided for by law for conviction of the offense.

11 B. The court shall not include a term of post-imprisonment  
12 supervision for any person:

- 13 1. Who has been sentenced to life or life without parole; or
- 14 2. Who has received the maximum term of confinement provided  
15 for by law for conviction of the offense.

16 SECTION 6. AMENDATORY 22 O.S. 2011, Section 991b, is  
17 amended to read as follows:

18 Section 991b. A. Whenever a sentence has been suspended by the  
19 court after conviction of a person for any crime, the suspended  
20 sentence of the person may not be revoked, in whole or part, for any  
21 cause unless a petition setting forth the grounds for such  
22 revocation is filed by the district attorney with the clerk of the  
23 sentencing court and competent evidence justifying the revocation of  
24 the suspended sentence is presented to the court at a hearing to be

1 held for that purpose within twenty (20) days after the entry of the  
2 plea of not guilty to the petition, unless waived by both the state  
3 and the defendant. The State of Oklahoma may dismiss the petition  
4 without prejudice one time upon good cause shown to the court,  
5 provided that any successor petition must be filed within forty-five  
6 (45) days of the date of the dismissal of the petition.

7 B. 1. The Department of Corrections shall develop a matrix of  
8 technical violations and sanctions to address ~~the~~ violations  
9 committed by persons who are being supervised by the Department.

10 The Department shall be authorized to use a violation response and  
11 intermediate sanction process based on the sanction matrix to apply  
12 to any technical violations of probationers. Within four (4)  
13 working days of the discovery of the violation, the probation  
14 officer shall initiate the violation response and intermediate  
15 sanction process. The sentencing judge may authorize any  
16 recommended sanctions, which may include, but are not limited to:  
17 short-term jail or lockup, day treatment, program attendance,  
18 community service, outpatient or inpatient treatment, monetary  
19 fines, curfews, ~~or~~ ignition interlock devices on vehicles, or a one-  
20 time referral to a term of confinement of six (6) months in an  
21 intermediate revocation facility operated by the Department of  
22 Corrections; provided, upon approval of the district attorney, a  
23 person may be sanctioned to serve additional terms of confinement in  
24 an intermediate revocation facility. The probation officer shall



1 complete a sanction form, which shall specify the technical  
2 violation, sanction, and the action plan to correct the noncompliant  
3 behavior resulting in the technical violation. The probation  
4 officer shall refer to the sanctioning matrix to determine the  
5 supervision, treatment, and sanctions appropriate to address the  
6 noncompliant behavior. The probation officer shall refer the  
7 violation information and recommended response with a sanction plan  
8 to the Department of Corrections to be heard by a hearing officer.  
9 The Department of Corrections shall develop a sanction matrix,  
10 forms, policies and procedures necessary to implement this  
11 provision. The Department of Corrections shall establish procedures  
12 to hear responses to technical violations and review sanction plans  
13 including the following:

- 14 a. hearing officers shall report through a chain of  
15 command separate from that of the supervising  
16 probation officers,
- 17 b. the Department shall provide the offender written  
18 notice of the violation, the evidence relied upon, and  
19 the reason the sanction was imposed,
- 20 c. the hearing shall be held unless the offender waives  
21 the right to the hearing,
- 22 d. hearings shall be electronically recorded, and

23  
24

1 e. the Department shall ~~make available~~ provide to judges  
2 and district attorneys a record of all violations and  
3 actions taken pursuant to this subsection.

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

19 C. 1. Where one of the grounds for revocation is the failure  
20 of the defendant to make restitution as ordered, the Department of  
21 Corrections shall forward to the district attorney all information  
22 pertaining to the failure of the defendant to make timely  
23 restitution as ordered by the court, and the district attorney shall  
24 file a petition setting forth the grounds for revocation.

1           2. The defendant ordered to make restitution can petition the  
2 court at any time for remission or a change in the terms of the  
3 order of restitution if the defendant undergoes a change of  
4 condition which materially affects the ability of the defendant to  
5 comply with the order of the court.

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

14           D. The court may revoke a portion of the sentence and leave the  
15 remaining part not revoked, but suspended for the remainder of the  
16 term of the sentence, and under the provisions applying to it. The  
17 person whose suspended sentence is being considered for revocation  
18 at the hearing shall have the right to be represented by counsel, to  
19 present competent evidence in his or her own behalf and to be  
20 confronted by the witnesses against the defendant. Any order of the  
21 court revoking the suspended sentence, in whole or in part, shall be  
22 subject to review on appeal, as in other appeals of criminal cases.  
23 Provided, however, that if the crime for which the suspended  
24 sentence is given was a felony, the defendant may be allowed bail

1 pending appeal. If the reason for revocation be that the defendant  
2 committed a felony, the defendant shall not be allowed bail pending  
3 appeal.

4 SECTION 7. AMENDATORY 57 O.S. 2011, Section 138, is  
5 amended to read as follows:

6 Section 138. A. Except as otherwise provided by law, every  
7 inmate of a state correctional institution shall have their term of  
8 imprisonment reduced monthly, based upon the class level to which  
9 they are assigned. Earned credits may be subtracted from the total  
10 credits accumulated by an inmate, upon recommendation of the  
11 institution's disciplinary committee, following due process, and  
12 upon approval of the warden or superintendent. Each earned credit  
13 is equivalent to one (1) day of incarceration. Lost credits may be  
14 restored by the warden or superintendent upon approval of the  
15 classification committee. If a maximum and minimum term of  
16 imprisonment is imposed, the provisions of this subsection shall  
17 apply only to the maximum term. No deductions shall be credited to  
18 any inmate serving a sentence of life imprisonment; however, a  
19 complete record of the inmate's participation in work, school,  
20 vocational training, or other approved program shall be maintained  
21 by the Department for consideration by the paroling authority. No  
22 earned credit deductions shall be credited or recorded for any  
23 inmate serving any sentence for a criminal act which resulted in the  
24 death of a police officer, a law enforcement officer, an employee of

1 the Department of Corrections, or an employee of a private prison  
2 contractor and the death occurred while the police officer, law  
3 enforcement officer, employee of the Department of Corrections, or  
4 employee of a private prison contractor was acting within the scope  
5 of their employment. No earned credit deductions shall be credited  
6 or recorded for any person who is referred to an intermediate  
7 revocation facility for violating any of the terms and conditions of  
8 probation.

9 B. The Department of Corrections is directed to develop a  
10 written policy and procedure whereby inmates shall be assigned to  
11 one of four class levels determined by an adjustment review  
12 committee of the facility to which the inmate is assigned. The  
13 policies and procedures developed by the Department shall include,  
14 but not be limited to, written guidelines pertaining to awarding  
15 credits for rehabilitation, obtaining job skills and educational  
16 enhancement, participation in and completion of alcohol/chemical  
17 abuse programs, incentives for inmates to accept work assignments  
18 and jobs, work attendance and productivity, conduct record,  
19 participation in programs, cooperative general behavior, and  
20 appearance. When assigning inmates to a class level the adjustment  
21 review committee shall consider all aspects of the policy and  
22 procedure developed by the Department including but not limited to,  
23 the criteria for awarding credits required by this subsection.

24

1 C. If an inmate is subject to misconduct, nonperformance or  
2 disciplinary action, earned credits may be removed according to the  
3 policies and procedures developed by the Department. Earned credits  
4 removed for misconduct, nonperformance or disciplinary action may be  
5 restored as provided by Department policy, if any.

6 D. 1. Class levels shall be as follows:

7 a. ~~Class~~ class level 1 shall include inmates not eligible  
8 to participate in class levels 2 through 4, and shall  
9 include, but not be limited to, inmates on escape  
10 status~~,,~~

11 b. ~~Class~~ class level 2 shall include an inmate who has  
12 been given a work, education, or program assignment,  
13 has received a good evaluation for participation in  
14 the work, education, or program assignment, and has  
15 received a good evaluation for personal hygiene and  
16 maintenance of living area~~,,~~

17 c. ~~Class~~ class level 3 shall include an inmate who has  
18 been incarcerated at least three (3) months, has  
19 received an excellent work, education, or program  
20 evaluation, and has received an excellent evaluation  
21 for personal hygiene and maintenance of living area~~,,~~  
22 and

23 d. ~~Class~~ class level 4 shall include an inmate who has  
24 been incarcerated at least eight (8) months, has

1 received an outstanding work, education, or program  
2 evaluation, and has received an outstanding evaluation  
3 for personal hygiene and maintenance of living area.

- 4 2. a. Until November 1, 2001, class level corresponding  
5 credits are as follows:

6 Class 1 - 0 Credits per month~~r~~l

7 Class 2 - 22 Credits per month~~r~~l

8 Class 3 - 33 Credits per month~~r~~l and

9 Class 4 - 44 Credits per month~~r~~l

- 10 b. Class level corresponding credits beginning November  
11 1, 2001, for inmates who have ever been convicted as  
12 an adult or a youthful offender or adjudicated  
13 delinquent as a juvenile for a felony offense  
14 enumerated in subsection E of this section are as  
15 follows:

16 Class 1 - 0 Credits per month~~r~~l

17 Class 2 - 22 Credits per month~~r~~l

18 Class 3 - 33 Credits per month~~r~~l and

19 Class 4 - 44 Credits per month~~r~~l and

- 20 c. Class level corresponding credits beginning November 1,  
21 2001, for inmates who have never been convicted as an  
22 adult or a youthful offender or adjudicated delinquent  
23 as a juvenile for a felony offense enumerated in  
24 subsection E of this section are as follows:

- 1           Class 1 - 0 Credits per month~~+~~    
2           Class 2 - 22 Credits per month~~+~~    
3           Class 3 - 45 Credits per month~~+~~   and  
4           Class 4 - 60 Credits per month.

5           Each inmate shall receive the above specified monthly credits  
6 for the class to which he or she is assigned. In determining the  
7 prior criminal history of the inmate, the Department of Corrections  
8 shall review criminal history records available through the Oklahoma  
9 State Bureau of Investigation, Federal Bureau of Investigation, and  
10 National Crime Information Center to determine the reported felony  
11 convictions of all inmates. The Department of Corrections shall  
12 also review the Office of Juvenile Affairs Juvenile On-line Tracking  
13 System for inmates who were adjudicated delinquent or convicted as a  
14 youthful offender for a crime that would be an offense enumerated in  
15 subsection E of this section.

16           3. In addition to the criteria established for each class in  
17 paragraph 1 of this subsection, the following requirements shall  
18 apply to each of levels 2 through 4:

- 19           a. satisfactory participation in the work, education, or  
20           program assignment at the standard required for the  
21           particular class level~~+~~    
22           b. maintenance of a clean and orderly living area and  
23           personal hygiene at the standard required for the  
24           particular class level~~+~~



1 c. cooperative behavior toward facility staff and other  
2 inmates~~,~~ and

3 d. satisfactory participation in the requirements of the  
4 previous class level.

5 4. The evaluation scale for assessing performance shall be as  
6 follows:

7 a. Outstanding - For inmates who display consistently  
8 exceptional initiative, motivation, and work habits~~,~~ and

9 b. Excellent - For inmates who display above-average work  
10 habits with only minor errors and rarely perform below  
11 expectations~~,~~ and

12 c. Good - For inmates who perform in a satisfactory  
13 manner and complete tasks as required, doing what is  
14 expected, with only occasional performance above or  
15 below expectations~~,~~ and

16 d. Fair - For inmates who may perform satisfactorily for  
17 some periods of time, but whose performance is marked  
18 by obviously deficient and weak areas and could be  
19 improved~~,~~ or

20 e. Poor - For inmates whose performance is unsatisfactory  
21 and falls below expected and acceptable standards.

22 E. No person ever convicted as an adult or a youthful offender  
23 or adjudicated delinquent as a juvenile in this state for any felony  
24 offense enumerated in this subsection or a similar felony offense

1 pursuant to the provisions of another state, the United States, or a  
2 military court shall be eligible for the credits provided by the  
3 provisions of subparagraph c of paragraph 2 of subsection D of this  
4 section-:

5 1. Assault, battery, or assault and battery with a dangerous  
6 weapon as defined by Section 645, or subsection C of Section 652 of  
7 Title 21 or Section 2-219 of Title 43A of the Oklahoma Statutes;

8 2. Aggravated assault and battery on a police officer, sheriff,  
9 highway patrolman, or any other officer of the law as defined by  
10 Section 650, subsection C of Section 650.2, 650.5, subsection B of  
11 Section 650.6, or subsection C of Section 650.7 of Title 21 of the  
12 Oklahoma Statutes;

13 3. Poisoning with intent to kill as defined by Section 651 of  
14 Title 21 of the Oklahoma Statutes;

15 4. Shooting with intent to kill as defined by Section 652 of  
16 Title 21 of the Oklahoma Statutes;

17 5. Assault with intent to kill as defined by Section 653 of  
18 Title 21 of the Oklahoma Statutes;

19 6. Assault with intent to commit a felony as defined by Section  
20 681 of Title 21 of the Oklahoma Statutes;

21 7. Assaults while masked or disguised as defined by Section  
22 1303 of Title 21 of the Oklahoma Statutes;

23 8. Entering premises of another while masked as defined by  
24 Section 1302 of Title 21 of the Oklahoma Statutes;

- 1        9. Murder in the first degree as defined by Section 701.7 of  
2 Title 21 of the Oklahoma Statutes;
- 3        10. Solicitation for Murder in the first degree as defined by  
4 Section 701.16 of Title 21 of the Oklahoma Statutes;
- 5        11. Murder in the second degree as defined by Section 701.8 of  
6 Title 21 of the Oklahoma Statutes;
- 7        12. Manslaughter in the first degree as defined by Section 711,  
8 712 or 714 of Title 21 of the Oklahoma Statutes;
- 9        13. Manslaughter in the second degree as defined by Section 716  
10 or 717 of Title 21 of the Oklahoma Statutes;
- 11       14. Kidnapping as defined by Section 741 of Title 21 of the  
12 Oklahoma Statutes;
- 13       15. Burglary in the first degree as defined by Section 1431 of  
14 Title 21 of the Oklahoma Statutes;
- 15       16. Burglary with explosives as defined by Section 1441 of  
16 Title 21 of the Oklahoma Statutes;
- 17       17. Kidnapping for extortion as defined by Section 745 of Title  
18 21 of the Oklahoma Statutes;
- 19       18. Maiming as defined by Section 751 of Title 21 of the  
20 Oklahoma Statutes;
- 21       19. Robbery as defined by Section 791 of Title 21 of the  
22 Oklahoma Statutes;
- 23       20. Robbery in the first degree as defined by Section 797 of  
24 Title 21 of the Oklahoma Statutes;

1        21. Robbery in the second degree as defined by Section 797 of  
2 Title 21 of the Oklahoma Statutes;

3        22. Armed robbery as defined by Section 801 of Title 21 of the  
4 Oklahoma Statutes;

5        23. Robbery by two (2) or more persons as defined by Section  
6 800 of Title 21 of the Oklahoma Statutes;

7        24. Robbery with dangerous weapon or imitation firearm as  
8 defined by Section 801 of Title 21 of the Oklahoma Statutes;

9        25. Any crime against a child provided for in Section 843.5 of  
10 Title 21 of the Oklahoma Statutes;

11       26. Wiring any equipment, vehicle or structure with explosives  
12 as defined by Section 849 of Title 21 of the Oklahoma Statutes;

13       27. Forcible sodomy as defined by Section 888 of Title 21 of  
14 the Oklahoma Statutes;

15       28. Rape in the first degree as defined by Sections 1111 and  
16 1114 of Title 21 of the Oklahoma Statutes;

17       29. Rape in the second degree as defined by Sections 1111 and  
18 1114 of Title 21 of the Oklahoma Statutes;

19       30. Rape by instrumentation as defined by Section 1111.1 of  
20 Title 21 of the Oklahoma Statutes;

21       31. Lewd or indecent proposition or lewd or indecent act with a  
22 child as defined by Section 1123 of Title 21 of the Oklahoma  
23 Statutes;

24

1           32. Sexual battery of a person over 16 as defined by Section  
2 1123 of Title 21 of the Oklahoma Statutes;

3           33. Use of a firearm or offensive weapon to commit or attempt  
4 to commit a felony as defined by Section 1287 of Title 21 of the  
5 Oklahoma Statutes;

6           34. Pointing firearms as defined by Section 1289.16 of Title 21  
7 of the Oklahoma Statutes;

8           35. Rioting as defined by Section 1311 or 1321.8 of Title 21 of  
9 the Oklahoma Statutes;

10          36. Inciting to riot as defined by Section 1320.2 of Title 21  
11 of the Oklahoma Statutes;

12          37. Arson in the first degree as defined by Section 1401 of  
13 Title 21 of the Oklahoma Statutes;

14          38. Endangering human life during arson as defined by Section  
15 1405 of Title 21 of the Oklahoma Statutes;

16          39. Injuring or burning public buildings as defined by Section  
17 349 of Title 21 of the Oklahoma Statutes;

18          40. Sabotage as defined by Section 1262, 1265.4 or 1265.5 of  
19 Title 21 of the Oklahoma Statutes;

20          41. Extortion as defined by Section 1481 or 1486 of Title 21 of  
21 the Oklahoma Statutes;

22          42. Obtaining signature by extortion as defined by Section 1485  
23 of Title 21 of the Oklahoma Statutes;

24

- 1        43. Seizure of a bus, discharging firearm or hurling missile at  
2 bus as defined by Section 1903 of Title 21 of the Oklahoma Statutes;
- 3        44. Mistreatment of a vulnerable adult as defined by Section  
4 843.1 of Title 21 of the Oklahoma Statutes;
- 5        45. Sex offender providing services to a child as defined by  
6 Section 404.1 of Title 10 of the Oklahoma Statutes;
- 7        46. A felony offense of domestic abuse as defined by subsection  
8 C of Section 644 of Title 21 of the Oklahoma Statutes;
- 9        47. Prisoner placing body fluid on government employee as  
10 defined by Section 650.9 of Title 21 of the Oklahoma Statutes;
- 11       48. Poisoning food or water supply as defined by Section 832 of  
12 Title 21 of the Oklahoma Statutes;
- 13       49. Trafficking in children as defined by Section 866 of Title  
14 21 of the Oklahoma Statutes;
- 15       50. Incest as defined by Section 885 of Title 21 of the  
16 Oklahoma Statutes;
- 17       51. Procure, produce, distribute, or possess juvenile  
18 pornography as defined by Section 1021.2 of Title 21 of the Oklahoma  
19 Statutes;
- 20       52. Parental consent to juvenile pornography as defined by  
21 Section 1021.3 of Title 21 of the Oklahoma Statutes;
- 22       53. Soliciting minor for indecent exposure as defined by  
23 Section 1021 of Title 21 of the Oklahoma Statutes;
- 24

1       54. Distributing obscene material or child pornography as  
2 defined by Section 1040.13 of Title 21 of the Oklahoma Statutes;

3       55. Child prostitution as defined by Section 1030 of Title 21  
4 of the Oklahoma Statutes;

5       56. Procuring a minor for prostitution or other lewd acts as  
6 defined by Section 1087 of Title 21 of the Oklahoma Statutes;

7       57. Transporting a child under 18 for purposes of prostitution  
8 as defined by Section 1087 of Title 21 of the Oklahoma Statutes;

9       58. Inducing a minor to engage in prostitution as defined by  
10 Section 1088 of Title 21 of the Oklahoma Statutes;

11       59. A felony offense of stalking as defined by subsection D of  
12 Section 1173 of Title 21 of the Oklahoma Statutes;

13       60. Spread of infectious diseases as defined by Section 1192 of  
14 Title 21 of the Oklahoma Statutes;

15       61. Advocate overthrow of government by force, commit or  
16 attempt to commit acts to overthrow the government, organize or  
17 provide assistance to groups to overthrow the government as defined  
18 by Section 1266, 1266.4 or 1267.1 of Title 21 of the Oklahoma  
19 Statutes;

20       62. Feloniously discharging a firearm as defined by Section  
21 1289.17A of Title 21 of the Oklahoma Statutes;

22       63. Possession, use, manufacture, or threat of incendiary  
23 device as defined by Section 1767.1 of Title 21 of the Oklahoma  
24 Statutes;

1       64. Causing a personal injury accident while driving under the  
2 influence as defined by Section 11-904 of Title 47 of the Oklahoma  
3 Statutes; or

4       65. Using a motor vehicle to facilitate the discharge of a  
5 firearm as defined by Section 652 of Title 21 of the Oklahoma  
6 Statutes.

7       F. The policy and procedure developed by the Department of  
8 Corrections shall include provisions for adjustment review  
9 committees of not less than three members for each such committee.  
10 Each committee shall consist of a classification team supervisor who  
11 shall act as chairman, the case manager for the inmate being  
12 reviewed or classified, a correctional officer or inmate counselor,  
13 and not more than two other members, if deemed necessary, determined  
14 pursuant to policy and procedure to be appropriate for the specific  
15 adjustment review committee or committees to which they are  
16 assigned. At least once every four (4) months the adjustment review  
17 committee for each inmate shall evaluate the class level status and  
18 performance of the inmate and determine whether or not the class  
19 level for the inmate should be changed.

20       Any inmate who feels aggrieved by a decision made by an  
21 adjustment review committee may utilize normal grievance procedures  
22 in effect with the Department of Corrections and in effect at the  
23 facility in which the inmate is incarcerated.



1 G. Inmates granted medical leaves for treatment that cannot be  
2 furnished at the penal institution where incarcerated shall be  
3 allowed the time spent on medical leave as time served. Any inmate  
4 placed into administrative segregation for nondisciplinary reasons  
5 by the institution's administration may be placed in Class 2. The  
6 length of any jail term served by an inmate before being transported  
7 to a state correctional institution pursuant to a judgment and  
8 sentence of incarceration shall be deducted from the term of  
9 imprisonment at the state correctional institution. Inmates  
10 sentenced to the Department of Corrections and detained in a county  
11 jail as a result of the Department's reception scheduling procedure  
12 shall be awarded earned credits as provided for in subparagraph b of  
13 paragraph 1 of subsection D of this section, beginning on the date  
14 of the judgment and sentence, unless the inmate is convicted of a  
15 misdemeanor or felony committed in the jail while the inmate is  
16 awaiting transport to the Lexington Assessment and Reception Center  
17 or other assessment and reception location determined by the  
18 Director of the Department of Corrections.

19 H. Additional achievement earned credits for successful  
20 completion of departmentally approved programs or for attaining  
21 goals or standards set by the Department shall be awarded as  
22 follows:

- 23 Bachelor's degree.....200 credits;
- 24 Associate's degree.....100 credits;

1 High School Diploma or Equivalent  
2 General Education Diploma.....90 credits;  
3 Certification of Completion of  
4 Vocational Training.....80 credits;  
5 Successful completion of  
6 Alcohol/Chemical Abuse Treatment  
7 Program of not less than four (4)  
8 months continuous participation.....70 credits;  
9 Successful completion of other  
10 Educational Accomplishments or  
11 other programs not specified in  
12 this subsection.....10-30 credits;

13 Achievement earned credits are subject to loss and restoration in  
14 the same manner as earned credits.

15 I. The accumulated time of every inmate shall be tallied  
16 monthly and maintained by the institution where the term of  
17 imprisonment is being served. A record of said accumulated time  
18 shall be:

- 19 1. Sent to the administrative office of the Department of  
20 Corrections on a quarterly basis; and
- 21 2. Provided to the inmate.

22 SECTION 8. AMENDATORY 57 O.S. 2011, Section 502, is  
23 amended to read as follows:  
24

1 Section 502. As used in this title, unless the context  
2 otherwise requires:

3 1. "Board" means the State Board of Corrections;

4 2. "Department" means the Department of Corrections of this  
5 state;

6 3. "Director" means the Director of the Department of  
7 Corrections;

8 4. "Halfway house" means a private facility for the placement  
9 of inmates in a community setting for the purpose of reintegrating  
10 into the community inmates who are nearing their release dates. The  
11 term shall not include private prisons;

12 5. "Institutions" means the Oklahoma State Penitentiary located  
13 at McAlester, Oklahoma; the Oklahoma State Reformatory located at  
14 Granite, Oklahoma; the Lexington Assessment and Reception Center  
15 located at Lexington, Oklahoma; the Joseph Harp Correctional Center  
16 located at Lexington, Oklahoma; the Jackie Brannon Correctional  
17 Center located at McAlester, Oklahoma; the Howard C. McLeod  
18 Correctional Center located at Farris, Oklahoma; the Mack H. Alford  
19 Correctional Center located at Stringtown, Oklahoma; the Jim E.  
20 Hamilton Correctional Center located at Hodgen, Oklahoma; the Mabel  
21 Bassett Correctional Center located at Oklahoma City, Oklahoma; the  
22 R.B. "Dick" Conner Correctional Center located at Hominy, Oklahoma;  
23 the James Crabtree Correctional Center located at Helena, Oklahoma;  
24 the Jess Dunn Correctional Center located at Taft, Oklahoma; the

1 John Lilley Correctional Center located at Boley, Oklahoma; the  
2 William S. Key Correctional Center located at Fort Supply, Oklahoma;  
3 the Dr. Eddie Walter Warrior Correctional Center located at Taft,  
4 Oklahoma; the Northeast Oklahoma Correctional Center located at  
5 Vinita, Oklahoma; the Clara Waters and Kate Barnard Community  
6 Corrections Centers located at Oklahoma City, Oklahoma; the  
7 Community Corrections Centers located at Lawton, Enid, and Muskogee;  
8 the Charles E. "Bill" Johnson Correctional Center, located east of  
9 Alva, Oklahoma; and other facilities under the jurisdiction and  
10 control of the Department of Corrections or hereafter established by  
11 the Department of Corrections;

12 ~~4. "Director" means the Director of the Department of~~  
13 ~~Corrections;~~

14 ~~5. "Halfway house" means a private facility for the placement~~  
15 ~~of inmates in a community setting for the purpose of reintegrating~~  
16 ~~into the community inmates who are nearing their release dates. The~~  
17 ~~term shall not include private prisons;~~

18 6. "Intermediate revocation facility" means a corrections  
19 center operated by the Department of Corrections or a private  
20 facility or public trust operating pursuant to contract with the  
21 Department of Corrections which provides housing and intensive  
22 programmatic services for offenders who have violated the terms or  
23 conditions of probation as determined by a supervising probation  
24 officer. "Intensive programmatic services" offered by the

1 Department of Corrections includes, but shall not be limited to,  
2 alcohol and substance abuse counseling and treatment, mental health  
3 counseling and treatment and domestic violence courses and treatment  
4 programs;

5 7. "Intermediate sanctions facility" means a community  
6 corrections center operated by the Department of Corrections or a  
7 private facility or public trust operating pursuant to contract with  
8 the Department of Corrections which provides for the housing and  
9 programmatic services of offenders such as probation or parole  
10 violators or community sentenced offenders placed in the facility  
11 for disciplinary sanctions, work release offenders, offenders who  
12 need intensive programmatic services, or offenders who have  
13 demonstrated positive adjustment while in an institutional setting  
14 who need additional programmatic services to enhance their reentry  
15 into society upon release from a prison term; and

16 ~~7.~~ 8. "Private prison contractor" means:

17 a. a nongovernmental entity or public trust which,  
18 pursuant to a contract with the Department of  
19 Corrections, operates an institution within the  
20 Department other than a halfway house or intermediate  
21 sanctions facility, or provides for the housing, care,  
22 and control of inmates and performs other functions  
23 related to these responsibilities within a minimum,  
24

1 medium, or maximum security level facility not owned  
2 by the Department but operated by the contractor, or  
3 b. a nongovernmental entity or public trust which,  
4 pursuant to a contract with the United States or  
5 another state, provides for the housing, care, and  
6 control of minimum or medium security inmates in the  
7 custody of the United States or another state, and  
8 performs other functions related to these  
9 responsibilities other than a halfway house or  
10 intermediate sanctions facility within a facility  
11 owned or operated by the contractor.

12 SECTION 9. AMENDATORY 57 O.S. 2011, Section 517, is  
13 amended to read as follows:

14 Section 517. A. ~~Except as provided in subsection B of this~~  
15 ~~section, the~~ A Probation and Parole Officer ~~shall~~, upon information  
16 sufficient to give the officer reasonable grounds to believe that a  
17 probationer has ~~violated the terms or conditions of the sentence of~~  
18 ~~probation~~ been charged with committing a felony offense, has been  
19 charged with committing a misdemeanor offense which reflects a  
20 propensity for violence, has been convicted of a misdemeanor  
21 offense, or has escaped from custody as provided in Section 443 of  
22 Title 21 of the Oklahoma Statutes, shall notify the Department. If  
23 it is determined that the facts justify revocation action, the  
24 Department shall issue a warrant for the arrest of the probationer

1 and the warrant shall have the force and effect of any warrant of  
2 arrest issued by a district court in this state. A probationer  
3 shall, after arrest, be immediately incarcerated in the nearest  
4 county jail or intermediate sanctions facility to await action by  
5 the court as to whether the probation will be revoked.

6 B. ~~Any probationer determined to have~~ A Probation and Parole  
7 Officer, upon information sufficient to give the officer reasonable  
8 grounds to believe that a probationer has violated any the terms or  
9 conditions of probation by the supervising probation officer, may,  
10 upon notify the Department. If it is determined that the facts  
11 justify disciplinary sanctions, the Department shall issue a warrant  
12 for the arrest of the probationer and the warrant shall have the  
13 force and effect of any warrant of arrest issued by a district court  
14 in this state. The probationer shall, after arrest, be immediately  
15 incarcerated in the nearest county jail or intermediate sanction  
16 facility to await action by the court as to whether disciplinary  
17 sanctions shall be imposed. Upon approval of the court and the  
18 Department of Corrections, the probationer shall be placed by the  
19 court in an intermediate ~~sanctions~~ revocation facility for  
20 disciplinary sanction and intensive programmatic services in lieu of  
21 a first revocation when revocation is deemed unnecessary for the  
22 nature of the violation. Repeated violations by the probationer of  
23 the terms and conditions of probation may result in a revocation  
24 proceeding.

1        C. Any probationer for whom a warrant for arrest issues as  
2 provided in subsection A of this section may, at the discretion of  
3 the court, be placed in an intermediate sanctions facility pending  
4 or following any action by the court as to revocation of probation  
5 or required additional conditions to remain on probation. A  
6 probationer may be processed by the Department on an expedited basis  
7 through any facility serving such purpose or may be processed  
8 directly by the intermediate sanctions facility.

9        D. Nothing in this section shall preclude a district attorney  
10 from initiating an application to revoke a suspended sentence  
11 pursuant to subsection A of this section without a recommendation  
12 from the Department or from initiating an application to revoke a  
13 suspended sentence and referring the person to an intermediate  
14 revocation facility without a recommendation from the Department  
15 pursuant to subsection B of this section, when the district attorney  
16 believes that competent evidence justifies the revocation of the  
17 suspended sentence.

18        SECTION 10.        NEW LAW        A new section of law to be codified  
19 in the Oklahoma Statutes as Section 628 of Title 57, unless there is  
20 created a duplication in numbering, reads as follows:

21        The Department of Corrections is hereby authorized to establish  
22 facilities to be designated as intermediate revocation facilities  
23 for the purpose of temporarily confining offenders who have violated  
24 the terms and conditions of probation and whose sentence would



1 otherwise be revoked. A period of confinement in an intermediate  
2 revocation facility shall be for six (6) months. An offender who is  
3 referred to an intermediate revocation facility shall not be  
4 eligible to receive any earned credits pursuant to the provisions of  
5 Section 138 of Title 57 of the Oklahoma Statutes.

6 SECTION 11. AMENDATORY 63 O.S. 2011, Section 2-402, is  
7 amended to read as follows:

8 Section 2-402. A. 1. It shall be unlawful for any person  
9 knowingly or intentionally to possess a controlled dangerous  
10 substance unless such substance was obtained directly, or pursuant  
11 to a valid prescription or order from a practitioner, while acting  
12 in the course of his professional practice, or except as otherwise  
13 authorized by this act.

14 2. It shall be unlawful for any person to purchase any  
15 preparation excepted from the provisions of the Uniform Controlled  
16 Dangerous Substances Act, ~~Section 2-101 et seq. of this title,~~  
17 pursuant to Section 2-313 of this title in an amount or within a  
18 time interval other than that permitted by Section 2-313 of this  
19 title.

20 3. It shall be unlawful for any person or business to sell,  
21 market, advertise or label any product containing ephedrine, its  
22 salts, optical isomers, or salts of optical isomers, for the  
23 indication of stimulation, mental alertness, weight loss, appetite  
24 control, muscle development, energy or other indication which is not

1 approved by the pertinent federal OTC Final Monograph, Tentative  
2 Final Monograph, or FDA-approved new drug application or its legal  
3 equivalent. In determining compliance with this requirement, the  
4 following factors shall be considered:

- 5 a. the packaging of the product,
- 6 b. the name of the product, and
- 7 c. the distribution and promotion of the product,  
8 including verbal representations made at the point of  
9 sale.

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

11 1. Any Schedule I or II substance, except marihuana or a  
12 substance included in subsection D of Section 2-206 of this title,  
13 is guilty of a felony punishable by imprisonment for not less than  
14 two (2) years nor more than ten (10) years and by a fine not  
15 exceeding Five Thousand Dollars (\$5,000.00). A second or subsequent  
16 violation of this section with respect to Schedule I or II  
17 substance, except marijuana or a substance included in subsection D  
18 of Section 2-206 of this title, is a felony punishable by  
19 imprisonment for not less than four (4) years nor more than twenty  
20 (20) years and by a fine not exceeding Ten Thousand Dollars  
21 (\$10,000.00); ~~or~~

22 2. Any Schedule III, IV or V substance, marihuana, a substance  
23 included in subsection D of Section 2-206 of this title, or any  
24 preparation excepted from the provisions of the Uniform Controlled

1 Dangerous Substances Act is guilty of a misdemeanor punishable by  
2 confinement for not more than one (1) year and by a fine not  
3 exceeding One Thousand Dollars (\$1,000.00). ~~A second or subsequent~~  
4 ~~violation of this section with respect to any;~~

5 3. Any Schedule III, IV or V substance, marijuana, a substance  
6 included in subsection D of Section 2-206 of this title, or any  
7 preparation excepted from the provisions of the Uniform Controlled  
8 Dangerous Substances Act ~~is~~ and who, during the period of any court-  
9 imposed probationary term or within ten (10) years of the date  
10 following the completion of the execution of any sentence or  
11 deferred judgment for a violation of this section, commits a second  
12 or subsequent violation of this section shall, upon conviction, be  
13 guilty of a felony punishable by imprisonment in the custody of the  
14 Department of Corrections for not less than two (2) years nor more  
15 than ten (10) years and by a fine not exceeding Five Thousand  
16 Dollars (\$5,000.00); or

17 4. Any Schedule III, IV or V substance, marijuana, a substance  
18 included in subsection D of Section 2-206 of this title, or any  
19 preparation excepted from the provisions of the Uniform Controlled  
20 Dangerous Substances Act and who commits a second or subsequent  
21 violation of this section shall, upon conviction, be guilty of a  
22 felony punishable by imprisonment in the custody of the Department  
23 of Corrections for not less than one (1) year nor more than five (5)  
24 years and by a fine not exceeding Five Thousand Dollars (\$5,000.00).

1 C. Any person who violates any provision of this section by  
2 possessing or purchasing a controlled dangerous substance from any  
3 person, in or on, or within one thousand (1,000) feet of the real  
4 property comprising a public or private elementary or secondary  
5 school, public vocational school, public or private college or  
6 university, or other institution of higher education, recreation  
7 center or public park, including state parks and recreation areas,  
8 or in the presence of any child under twelve (12) years of age,  
9 shall be guilty of a felony and punished by:

10 1. For a first offense, a term of imprisonment, or by the  
11 imposition of a fine, or by both, not exceeding twice that  
12 authorized by the appropriate provision of this section. In  
13 addition, the person shall serve a minimum of fifty percent (50%) of  
14 the sentence received prior to becoming eligible for state  
15 correctional institution earned credits toward the completion of  
16 said sentence; or

17 2. For a second or subsequent offense, a term of imprisonment  
18 not exceeding three times that authorized by the appropriate  
19 provision of this section and the person shall serve a minimum of  
20 ninety percent (90%) of the sentence received prior to becoming  
21 eligible for state correctional institution earned credits toward  
22 the completion of said sentence, and imposition of a fine not  
23 exceeding Ten Thousand Dollars (\$10,000.00).

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

6 SECTION 12. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 20k of Title 74, unless there is  
8 created a duplication in numbering, reads as follows:

9 A. There is hereby established the Justice Reinvestment Grant  
10 Program. Contingent upon the provision of appropriate funds  
11 designated for Justice Reinvestment grants, the Office of the  
12 Attorney General is authorized to award one or more such competitive  
13 grants to local law enforcement agencies for the purpose of  
14 providing funding for new initiatives and strategies to combat  
15 violent crime as proposed by local law enforcement agencies. Funds  
16 shall be used for local initiatives, technical assistance, law  
17 enforcement training, law enforcement equipment, crime victim  
18 services, contractual support and information systems for criminal  
19 justice purposes.

20 B. To be eligible for a Justice Reinvestment Grant, local law  
21 enforcement agencies shall submit proposals to the Office of the  
22 Attorney General that focus on increasing the capacity of the law  
23 enforcement agency to address violent crime within their  
24 jurisdiction through one of the following priority strategies:

1 1. Focusing on intervention and enforcement through the use of  
2 increased staffing resources with overtime funds to target violent  
3 crime with evidence-driven approaches. Policing initiatives may  
4 include directed patrols, "hot spot" policing, intelligence-led  
5 policing, or youth and gang violence interventions;

6 2. Increasing technological capacity to support intervention  
7 and enforcement with the purchase of technology for crime prevention  
8 and criminal justice problem solving. Technology shall include, but  
9 not be limited to, crime mapping software, Global Positioning  
10 Systems (GPS) technology and smart phone tools;

11 3. Enhancing analytical capacity through the development or  
12 expansion of analytical capabilities that focus on crime mapping,  
13 analysis of crime trends and developing data-driven strategies that  
14 focus on violent crime reduction through the employment of civilian  
15 crime analysts;

16 4. Engaging with community partners in order to develop  
17 partnerships and projects that focus on preventing violent crime in  
18 the community. Community partners may include, but are not limited  
19 to, public and private service providers, the courts, and probation  
20 and parole services. Projects shall include, but are not limited  
21 to, programs that focus on drug enforcement efforts, youth violent  
22 crime, gang violence, and offender recidivism; and

23 5. Increasing direct services to crime victims through local  
24 law enforcement efforts which shall include, but not be limited to,

1 addressing gaps in crime victims services by enhancing accessibility  
2 to services, increasing awareness of victimization and partnering  
3 with local community providers to improve supports and services to  
4 victims of crime.

5 C. Preference shall be given to grant applicants that can  
6 demonstrate a commitment to regional, multijurisdictional strategies  
7 to address community safety issues and can clearly outline a  
8 comprehensive plan for municipalities to work with law enforcement,  
9 community-based organizations and government agencies to address  
10 violent criminal activity.

11 D. Grants awarded pursuant to the Justice Reinvestment Grant  
12 Program shall be considered one-time grants awarded to local law  
13 enforcement agencies. The Office of the Attorney General shall  
14 consult with local law enforcement agencies when determining grant  
15 eligibility requirements and criteria. The Office of the Attorney  
16 General shall publish guidelines and an application for the  
17 competitive portion of the grant program no later than January 1,  
18 2013.

19 E. The Office of the Attorney General is hereby authorized to  
20 adopt rules and procedures as necessary to carry out the provisions  
21 of this section.

22 SECTION 13. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 201 of Title 74, unless there is  
24 created a duplication in numbering, reads as follows:

1       A. The Office of the Attorney General shall have the authority  
2 to collect information sufficient to meet its responsibilities  
3 related to the auditing of justice reinvestment initiatives in this  
4 state.

5       B. The individual forms, computer and electronic data, and  
6 other forms of information collected by and furnished to the  
7 Attorney General shall be confidential and shall not be public  
8 records as defined in the Oklahoma Open Records Act.

9       C. Except as otherwise provided by state and federal  
10 confidentiality laws, identifying information shall not be disclosed  
11 and shall not be used for any public purpose other than the creation  
12 and maintenance of anonymous datasets for statistical reporting and  
13 data analysis.

14       D. The following entities shall report and submit the required  
15 information to the Attorney General on or before November 1, 2016:

16       1. The Oklahoma State Bureau of Investigation shall provide  
17 crimes rates for violent, property and drug-related crimes;

18       2. The Department of Mental Health and Substance Abuse Services  
19 shall provide information related to the location and number of  
20 mental health beds, funds expended on services for criminal  
21 offenders, the total number of mental health assessments completed  
22 by the Department, as well as the average score, costs and  
23 verification of mental health assessment tools;

24



1           3. The District Attorneys Council shall provide information  
2 related to the costs of providing training for victim-witness  
3 coordinators and support staff who provide services to crime victims  
4 and witnesses within each district and the number of assistant  
5 district attorneys and support staff employed within each office;

6           4. The Administrative Director of the Courts shall provide the  
7 total number of criminal sentence modifications; and

8           5. The Department of Corrections shall provide information  
9 related to incarceration rates including, but not limited to, the  
10 type of criminal offense, average period of incarceration, total  
11 number of correctional facilities and the total number of  
12 corrections officers, corrections employees and probation and parole  
13 employees. The Department of Corrections shall also provide the  
14 total number of offenders who are on probation, parole or post-  
15 imprisonment supervision and shall also provide information related  
16 to the use of sanctions, including technical violations, referrals  
17 to intermediate sanctions facilities, intermediate revocation  
18 facilities and revocations.

19           E. The Attorney General shall include in the report the number  
20 of grants awarded pursuant to the Justice Reinvestment Grant Program  
21 established pursuant to the provisions of Section 12 of this act and  
22 the name of the law enforcement agency which received said grant.

23           F. A detailed report of the data analysis shall be provided by  
24 the Attorney General to the Governor, the Speaker of the Oklahoma

1 House of Representatives and the President Pro Tempore of the  
2 Oklahoma State Senate by January 1, 2017.

3 SECTION 14. This act shall become effective November 1, 2012.  
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