

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2377

By: Tibbs

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5
6 AS INTRODUCED

7 An Act relating to corrections; amending 22 O.S.
8 2011, Section 991a, which relates to sentencing
9 powers of the court; authorizing use of electronic
10 monitoring of inmates under certain circumstances;
11 authorizing sheriff to contract for electronic
12 monitoring services; providing for the revocation of
13 electronic monitoring order; defining term; providing
14 exemption from certain liability; amending 57 O.S.
15 2011, Section 38, which relates to reimbursement
16 rates for incarcerated inmates; providing rate of
17 reimbursement for inmates on electronic supervision;
18 and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2011, Section 991a, is
amended to read as follows:

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

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

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

16 b. to reimburse any state agency for amounts paid by the
17 state agency for hospital and medical expenses
18 incurred by the victim or victims, as a result of the
19 criminal act for which such person was convicted,
20 which reimbursement shall be made directly to the
21 state agency, with interest accruing thereon at the
22 rate of twelve percent (12%) per annum,

23 c. to engage in a term of community service without
24 compensation, according to a schedule consistent with

1 the employment and family responsibilities of the
2 person convicted,

3 d. to pay a reasonable sum into any trust fund,
4 established pursuant to the provisions of Sections 176
5 through 180.4 of Title 60 of the Oklahoma Statutes,
6 and which provides restitution payments by convicted
7 defendants to victims of crimes committed within this
8 state wherein such victim has incurred a financial
9 loss,

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

12 f. to confinement as provided by law together with a term
13 of post-imprisonment community supervision for not
14 less than three (3) years of the total term allowed by
15 law for imprisonment, with or without restitution;
16 provided, however, the authority of this provision is
17 limited to Section 843.5 of Title 21 of the Oklahoma
18 Statutes when the offense involved sexual abuse or
19 sexual exploitation; Sections 681, 741 and 843.1 of
20 Title 21 of the Oklahoma Statutes when the offense
21 involved sexual abuse or sexual exploitation; and
22 Sections 865 et seq., 885, 886, 888, 891, 1021,
23 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and
24 1123 of Title 21 of the Oklahoma Statutes,

1 g. to repay the reward or part of the reward paid by a
2 local certified crime stoppers program and the
3 Oklahoma Reward System. In determining whether the
4 defendant shall repay the reward or part of the
5 reward, the court shall consider the ability of the
6 defendant to make the payment, the financial hardship
7 on the defendant to make the required payment, and the
8 importance of the information to the prosecution of
9 the defendant as provided by the arresting officer or
10 the district attorney with due regard for the
11 confidentiality of the records of the local certified
12 crime stoppers program and the Oklahoma Reward System.
13 The court shall assess this repayment against the
14 defendant as a cost of prosecution. The term
15 "certified" means crime stoppers organizations that
16 annually meet the certification standards for crime
17 stoppers programs established by the Oklahoma Crime
18 Stoppers Association to the extent those standards do
19 not conflict with state statutes. The term "court"
20 refers to all municipal and district courts within
21 this state. The "Oklahoma Reward System" means the
22 reward program established by Section 150.18 of Title
23 74 of the Oklahoma Statutes,
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1 h. to reimburse the Oklahoma State Bureau of
2 Investigation for costs incurred by that agency during
3 its investigation of the crime for which the defendant
4 pleaded guilty, nolo contendere or was convicted,
5 including compensation for laboratory, technical, or
6 investigation services performed by the Bureau if, in
7 the opinion of the court, the defendant is able to pay
8 without imposing manifest hardship on the defendant,
9 and if the costs incurred by the Bureau during the
10 investigation of the defendant's case may be
11 determined with reasonable certainty,

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

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

7 k. to reimburse the court fund for amounts paid to court-
8 appointed attorneys for representing the defendant in
9 the case in which the person is being sentenced,

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

19 m. to be placed in a victims impact panel program or
20 victim/offender reconciliation program and payment of
21 a fee to the program of not less than Fifteen Dollars
22 (\$15.00) nor more than Fifty Dollars (\$50.00) as set
23 by the governing authority of the program to offset
24 the cost of participation by the defendant. Provided,

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

1 further court order. Failure to comply with the order
2 to install an ignition interlock device or operating
3 any vehicle without a device during the period of
4 restriction shall be a violation of the sentence and
5 may be punished as deemed proper by the sentencing
6 court. As used in this paragraph, "ignition interlock
7 device" means a device that, without tampering or
8 intervention by another person, would prevent the
9 defendant from operating a motor vehicle if the
10 defendant has a blood or breath alcohol concentration
11 of two-hundredths (0.02) or greater,

- 12 o. to be confined by electronic monitoring administered
13 and supervised by the Department of Corrections or a
14 community sentence provider, and payment of a
15 monitoring fee to the supervising authority, not to
16 exceed Three Hundred Dollars (\$300.00) per month. Any
17 fees collected pursuant to this paragraph shall be
18 deposited with the appropriate supervising authority.
19 Any willful violation of an order of the court for the
20 payment of the monitoring fee shall be a violation of
21 the sentence and may be punished as deemed proper by
22 the sentencing court. As used in this paragraph,
23 "electronic monitoring" means confinement of the
24 defendant within a specified location or locations

1 with supervision by means of an electronic device
2 approved by the Department of Corrections which is
3 designed to detect if the defendant is in the court-
4 ordered location at the required times and which
5 records violations for investigation by a qualified
6 supervisory agency or person,

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

- 1 q. to submit to periodic testing for alcohol,
2 intoxicating substance, or controlled dangerous
3 substances by a qualified laboratory,
- 4 r. to pay a fee, costs for treatment, education,
5 supervision, participation in a program, or any
6 combination thereof as determined by the court, based
7 upon the defendant's ability to pay the fees or costs,
- 8 s. to be supervised by a Department of Corrections
9 employee, a private supervision provider, or other
10 person designated by the court,
- 11 t. to obtain positive behavior modeling by a trained
12 mentor,
- 13 u. to serve a term of confinement in a restrictive
14 housing facility available in the community,
- 15 v. to serve a term of confinement in the county jail at
16 night or during weekends pursuant to Section 991a-2 of
17 this title or for work release,
- 18 w. to obtain employment or participate in employment-
19 related activities,
- 20 x. to participate in mandatory day reporting to
21 facilities or persons for services, payments, duties
22 or person-to-person contacts as specified by the
23 court,
- 24

1 y. to pay day fines not to exceed fifty percent (50%) of
2 the net wages earned. For purposes of this paragraph,
3 "day fine" means the offender is ordered to pay an
4 amount calculated as a percentage of net daily wages
5 earned. The day fine shall be paid to the local
6 community sentencing system as reparation to the
7 community. Day fines shall be used to support the
8 local system,

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

11 aa. to repair or restore property damaged by the
12 defendant's conduct, if the court determines the
13 defendant possesses sufficient skill to repair or
14 restore the property and the victim consents to the
15 repairing or restoring of the property,

16 bb. to restore damaged property in kind or payment of out-
17 of-pocket expenses to the victim, if the court is able
18 to determine the actual out-of-pocket expenses
19 suffered by the victim,

20 cc. to attend a victim-offender reconciliation program if
21 the victim agrees to participate and the offender is
22 deemed appropriate for participation,

23 dd. in the case of a person convicted of prostitution
24 pursuant to Section 1029 of Title 21 of the Oklahoma

1 Statutes, require such person to receive counseling
2 for the behavior which may have caused such person to
3 engage in prostitution activities. Such person may be
4 required to receive counseling in areas including but
5 not limited to alcohol and substance abuse, sexual
6 behavior problems, or domestic abuse or child abuse
7 problems,

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

1 treatment program must be approved by the Department
2 of Corrections or the Department of Mental Health and
3 Substance Abuse Services. Such treatment shall be at
4 the expense of the defendant based on the defendant's
5 ability to pay,

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

15 gg. in the case of a person convicted of any false or
16 bogus check violation, as defined in Section 1541.4 of
17 Title 21 of the Oklahoma Statutes, impose a fee of
18 Twenty-five Dollars (\$25.00) to the victim for each
19 check, and impose a bogus check fee to be paid to the
20 district attorney. The bogus check fee paid to the
21 district attorney shall be equal to the amount
22 assessed as court costs plus Twenty-five Dollars
23 (\$25.00) for each check upon filing of the case in
24 district court. This money shall be deposited in the

1 Bogus Check Restitution Program Fund as established in
2 subsection B of Section 114 of this title.

3 Additionally, the court may require the offender to
4 pay restitution and bogus check fees on any other
5 bogus check or checks that have been submitted to the
6 District Attorney Bogus Check Restitution Program, and

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

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

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

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

19 4. Order the defendant to reimburse the Oklahoma State Bureau
20 of Investigation for costs incurred by that agency during its
21 investigation of the crime for which the defendant pleaded guilty,
22 nolo contendere or was convicted, including compensation for
23 laboratory, technical, or investigation services performed by the
24 Bureau if, in the opinion of the court, the defendant is able to pay

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

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

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

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

23 a. to participate in an alcohol and drug assessment and
24 evaluation by an assessment agency or assessment

1 personnel certified by the Department of Mental Health
2 and Substance Abuse Services pursuant to Section 3-460
3 of Title 43A of the Oklahoma Statutes and, as
4 determined by the assessment, participate in an
5 alcohol and drug substance abuse course or treatment
6 program or both, pursuant to Sections 3-452 and 3-453
7 of Title 43A of the Oklahoma Statutes,

8 b. to attend a victims impact panel program, if such a
9 program is offered in the county where the judgment is
10 rendered, and to pay a fee, not less than Fifteen
11 Dollars (\$15.00) nor more than Fifty Dollars (\$50.00)
12 as set by the governing authority of the program and
13 approved by the court, to the program to offset the
14 cost of participation by the defendant, if in the
15 opinion of the court the defendant has the ability to
16 pay such fee,

17 c. to both participate in the alcohol and drug substance
18 abuse course or treatment program, pursuant to
19 subparagraph a of this paragraph and attend a victims
20 impact panel program, pursuant to subparagraph b of
21 this paragraph,

22 d. to install, at the expense of the person, an ignition
23 interlock device approved by the Board of Tests for
24 Alcohol and Drug Influence, upon every motor vehicle

1 operated by such person and to require that a notation
2 of this restriction be affixed to the person's driver
3 license at the time of reinstatement of the license.
4 The restriction shall remain on the driver license for
5 such period as the court shall determine. The
6 restriction may be modified or removed by order of the
7 court and notice of the order shall be given to the
8 Department of Public Safety. Upon the expiration of
9 the period for the restriction, the Department of
10 Public Safety shall remove the restriction without
11 further court order. Failure to comply with the order
12 to install an ignition interlock device or operating
13 any vehicle without such device during the period of
14 restriction shall be a violation of the sentence and
15 may be punished as deemed proper by the sentencing
16 court, or

17 e. beginning January 1, 1993, to submit to electronically
18 monitored home detention administered and supervised
19 by the Department of Corrections, and to pay to the
20 Department a monitoring fee, not to exceed Seventy-
21 five Dollars (\$75.00) a month, to the Department of
22 Corrections, if in the opinion of the court the
23 defendant has the ability to pay such fee. Any fees
24 collected pursuant to this subparagraph shall be

1 deposited in the Department of Corrections Revolving
2 Fund. Any order by the court for the payment of the
3 monitoring fee, if willfully disobeyed, may be
4 enforced as an indirect contempt of court;

5 8. In addition to the other sentencing powers of the court, in
6 the case of a person convicted of prostitution pursuant to Section
7 1029 of Title 21 of the Oklahoma Statutes, require such person to
8 receive counseling for the behavior which may have caused such
9 person to engage in prostitution activities. Such person may be
10 required to receive counseling in areas including but not limited to
11 alcohol and substance abuse, sexual behavior problems, or domestic
12 abuse or child abuse problems;

13 9. In addition to the other sentencing powers of the court, in
14 the case of a person convicted of any crime related to domestic
15 abuse, as defined in Section 60.1 of this title, the court may
16 require the defendant to undergo the treatment or participate in the
17 counseling services necessary to bring about the cessation of
18 domestic abuse against the victim. The defendant may be required to
19 pay all or part of the cost of the treatment or counseling services;

20 10. In addition to the other sentencing powers of the court,
21 the court, in the case of a sex offender sentenced after November 1,
22 1989, and required by law to register pursuant to the Sex Offenders
23 Registration Act, shall require the person to participate in a
24 treatment program designed specifically for the treatment of sex

1 offenders, if available. The treatment program will include
2 polygraph examinations specifically designed for use with sex
3 offenders for the purpose of supervision and treatment compliance,
4 provided the examination is administered by a certified licensed
5 polygraph examiner. The treatment program must be approved by the
6 Department of Corrections or the Department of Mental Health and
7 Substance Abuse Services. Such treatment shall be at the expense of
8 the defendant based on the defendant's ability to pay;

9 11. In addition to the other sentencing powers of the court,
10 the court, in the case of a person convicted of child abuse or
11 neglect, as defined in Section 1-1-105 of Title 10A of the Oklahoma
12 Statutes, may require the person to undergo treatment or to
13 participate in counseling services. The defendant may be required
14 to pay all or part of the cost of the treatment or counseling
15 services;

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

21 13. In addition to the other sentencing powers of the court, a
22 sex offender who is habitual or aggravated as defined by Section 584
23 of Title 57 of the Oklahoma Statutes and who is required to register
24 as a sex offender pursuant to the Oklahoma Sex Offenders

1 Registration Act shall be supervised by the Department of
2 Corrections for the duration of the registration period and shall be
3 assigned to a global position monitoring device by the Department of
4 Corrections for the duration of the registration period. The cost
5 of such monitoring device shall be reimbursed by the offender;

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

13 15. In addition to the other sentencing powers of the court, in
14 the case of a sex offender who is required by law to register
15 pursuant to the Sex Offenders Registration Act, the court shall
16 require the person to register any electronic mail address
17 information, instant message, chat or other Internet communication
18 name or identity information that the person uses or intends to use
19 while accessing the Internet or used for other purposes of social
20 networking or other similar Internet communication; or

21 16. When a nonviolent offender is sentenced to the Department
22 of Corrections and the offender is detained in a county jail as a
23 result of the reception scheduling procedure of the Department of
24 Corrections, the court may, upon application of the offender and

1 with the consent of the district attorney and sheriff, order the
2 offender to be confined in the home of the offender or other
3 suitable location and be supervised by electronic monitoring
4 administered by the sheriff of the county in which the conviction
5 occurred; provided, the sheriff has the capacity to electronically
6 monitor the offender twenty-four (24) hours per day, seven (7) days
7 per week with real time monitoring that shall immediately notify the
8 sheriff or designee of the sheriff of a violation of the confinement
9 order. A sheriff may contract for such electronic monitoring with a
10 private vendor. The private vendor shall have the capacity to
11 electronically monitor offenders twenty-four (24) hours a day, seven
12 (7) days a week with real time monitoring that utilizes two separate
13 monitoring technologies with automatic rollover capabilities for
14 redundancy and that immediately notifies the sheriff or designee of
15 the sheriff of a violation of the terms of confinement. The court
16 shall designate the specific locations of confinement and the rules
17 and conditions of said confinement. The court may revoke the order
18 for electronic monitoring at any time for a violation of the order
19 or if the court determines the offender is or has become a safety or
20 escape risk. As used in this paragraph, "electronic monitoring"
21 means confinement of the offender within a specified location or
22 locations with supervision by means of an electronic device which is
23 designed to detect if the offender is in the court-ordered location
24 at the required times and record any violations of the confinement

1 order. While the offender is electronically confined within a
2 specified location or locations pending transfer to a correctional
3 facility of the Department of Corrections, the offender shall be
4 responsible for all living expenses including medical care and
5 treatment expenses of the offender. The county and the Department
6 of Corrections shall bear no liability for such living and medical
7 care and treatment expenses of the offender. If the offender is
8 unable to assume such responsibility, the offender shall not be
9 eligible for electronic monitoring. While confined to electronic
10 monitoring, the offender shall receive credit for time served the
11 same as if the offender were confined in the county jail. If, on
12 the effective date of this act, there is a nonviolent offender in
13 any county jail that would qualify for confinement at home or other
14 suitable location supervised by electronic monitoring under the
15 provisions of this paragraph, the sentencing court of the offender
16 shall have jurisdiction to make such an order upon application of
17 the offender and with the consent of the district attorney and
18 sheriff.

19 B. Notwithstanding any other provision of law, any person who
20 is found guilty of a violation of any provision of Section 761 or
21 11-902 of Title 47 of the Oklahoma Statutes or any person pleading
22 guilty or nolo contendere for a violation of any provision of such
23 sections shall be ordered to participate in, prior to sentencing, an
24 alcohol and drug assessment and evaluation by an assessment agency

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

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

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

1 of subsection A of this section. Provided, the court may waive
2 these prohibitions upon written application of the district
3 attorney. Both the application and the waiver shall be made part of
4 the record of the case.

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

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

24

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

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

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

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

24

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

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

12 H. As used in this section:

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

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

23 I. A person convicted of a felony offense or receiving any form
24 of probation for an offense in which registration is required

1 pursuant to the Sex Offenders Registration Act, shall submit to
2 deoxyribonucleic acid DNA testing for law enforcement identification
3 purposes in accordance with Section 150.27 of Title 74 of the
4 Oklahoma Statutes and the rules promulgated by the Oklahoma State
5 Bureau of Investigation for the OSBI Combined DNA Index System
6 (CODIS) Database. Subject to the availability of funds, any person
7 convicted of a misdemeanor offense of assault and battery, domestic
8 abuse, stalking, possession of a controlled substance prohibited
9 under Schedule IV of the Uniform Controlled Dangerous Substances
10 Act, outraging public decency, resisting arrest, escape or
11 attempting to escape, eluding a police officer, peeping tom,
12 pointing a firearm, unlawful carry of a firearm, illegal transport
13 of a firearm, discharging of a firearm, threatening an act of
14 violence, breaking and entering a dwelling place, destruction of
15 property, negligent homicide, or causing a personal injury accident
16 while driving under the influence of any intoxicating substance, or
17 any alien unlawfully present under federal immigration law, upon
18 arrest, shall submit to deoxyribonucleic acid DNA testing for law
19 enforcement identification purposes in accordance with Section
20 150.27 of Title 74 of the Oklahoma Statutes and the rules
21 promulgated by the Oklahoma State Bureau of Investigation for the
22 OSBI Combined DNA Index System (CODIS) Database. Any defendant
23 sentenced to probation shall be required to submit to testing within
24 thirty (30) days of sentencing either to the Department of

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

14 Any person who is incarcerated in the custody of the Department
15 of Corrections after July 1, 1996, and who has not been released
16 before January 1, 2006, shall provide a blood or saliva sample prior
17 to release. Every person subject to DNA testing after January 1,
18 2006, whose sentence does not include a term of confinement with the
19 Department of Corrections shall submit a blood or saliva sample.
20 Every person subject to DNA testing who is sentenced to unsupervised
21 probation or otherwise not supervised by the Department of
22 Corrections shall submit for blood or saliva testing to the sheriff
23 of the sentencing county.

24

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

22 K. When sentencing a person who has been convicted of a crime
23 that would subject that person to the provisions of the Sex
24 Offenders Registration Act, neither the court nor the district

1 attorney shall be allowed to waive or exempt such person from the
2 registration requirements of the Sex Offenders Registration Act.

3 SECTION 2. AMENDATORY 57 O.S. 2011, Section 38, is
4 amended to read as follows:

5 Section 38. A. Until January 1, 2007, the Department of
6 Corrections shall reimburse any county, which is required to retain
7 an inmate pursuant to ~~paragraph 2~~ subsection B of Section 37 of this
8 title, in an amount not to exceed Twenty-four Dollars (\$24.00) per
9 day for each inmate during such period of retention. The proceeds
10 of this reimbursement shall be used to defray expenses of equipping
11 and maintaining the jail and payment of personnel. The Department
12 of Corrections shall reimburse the county for the emergency medical
13 care for physical injury or illness of the inmate retained under
14 this act if the injury or illness is directly related to the
15 incarceration and the county is required by law to provide such care
16 for inmates in the jail. The Department shall not pay fees for
17 medical care in excess of the rates established for Medicaid
18 providers. The state shall not be liable for medical charges in
19 excess of the Medicaid scheduled rate. The Director may accept any
20 inmate required to have extended medical care upon application of
21 the county.

22 B. Effective January 1, 2007, the Department of Corrections
23 shall reimburse any county, which is required to retain an inmate
24 pursuant to ~~paragraph 2~~ subsection B of Section 37 of this title, in

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

15 C. If the inmate is confined in a specified location or
16 locations under electronic supervision as ordered by the court
17 pursuant to paragraph 16 of subsection A of Section 991a of Title 22
18 of the Oklahoma Statutes, the Department of Corrections shall
19 reimburse the county in an amount not to exceed Twenty Dollars
20 (\$20.00) per day in lieu of the payment provided for in subsection B
21 of this section for each inmate during such period of retention.
22 The proceeds of this reimbursement shall be used to defray expenses
23 of equipping and maintaining the jail, payment of personnel and
24 expenses related to monitoring inmates who are on electronic

1 monitoring while awaiting transfer to a correctional facility of the
2 Department of Corrections.

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

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