

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               1st Session of the 55th Legislature (2015)

4   HOUSE BILL 1683

By: Denney of the House

5   and

6   Halligan of the Senate

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9                               AS INTRODUCED

10           An Act relating to DNA collection procedures;  
11           amending 22 O.S. 2011, Section 991a, as last amended  
12           by Section 1, Chapter 157, O.S.L. 2014 (22 O.S. Supp.  
13           2014, Section 991a), which relates to sentencing  
14           powers of the court; providing for the collection of  
15           DNA specimens by certain entity; amending 74 O.S.  
16           2011, Section 150.27a, which relates to the OSBI  
17           Combined DNA Index System (CODIS) Database; providing  
18           for the collection of DNA specimens by certain  
19           entity; and providing an effective date.

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1 convicted of a crime and no death sentence is imposed, the court  
2 shall either:

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

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

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

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

1 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and  
2 1123 of Title 21 of the Oklahoma Statutes,

3 g. to repay the reward or part of the reward paid by a  
4 local certified crime stoppers program and the  
5 Oklahoma Reward System. In determining whether the  
6 defendant shall repay the reward or part of the  
7 reward, the court shall consider the ability of the  
8 defendant to make the payment, the financial hardship  
9 on the defendant to make the required payment, and the  
10 importance of the information to the prosecution of  
11 the defendant as provided by the arresting officer or  
12 the district attorney with due regard for the  
13 confidentiality of the records of the local certified  
14 crime stoppers program and the Oklahoma Reward System.  
15 The court shall assess this repayment against the  
16 defendant as a cost of prosecution. The term  
17 "certified" means crime stoppers organizations that  
18 annually meet the certification standards for crime  
19 stoppers programs established by the Oklahoma Crime  
20 Stoppers Association to the extent those standards do  
21 not conflict with state statutes. The term "court"  
22 refers to all municipal and district courts within  
23 this state. The "Oklahoma Reward System" means the  
24

1 reward program established by Section 150.18 of Title  
2 74 of the Oklahoma Statutes,

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

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

1 Section 150.19a of Title 74 of the Oklahoma Statutes  
2 or to the general fund wherein the other law  
3 enforcement agency is located,

- 4 j. to pay a reasonable sum to the Crime Victims  
5 Compensation Board, created by Section 142.2 et seq.  
6 of Title 21 of the Oklahoma Statutes, for the benefit  
7 of crime victims,
- 8 k. to reimburse the court fund for amounts paid to court-  
9 appointed attorneys for representing the defendant in  
10 the case in which the person is being sentenced,
- 11 l. to participate in an assessment and evaluation by an  
12 assessment agency or assessment personnel certified by  
13 the Department of Mental Health and Substance Abuse  
14 Services pursuant to Section 3-460 of Title 43A of the  
15 Oklahoma Statutes and, as determined by the  
16 assessment, participate in an alcohol and drug  
17 substance abuse course or treatment program or both,  
18 pursuant to Sections 3-452 and 3-453 of Title 43A of  
19 the Oklahoma Statutes, or as ordered by the court,
- 20 m. to be placed in a victims impact panel program, as  
21 defined in subsection H of this section, or  
22 victim/offender reconciliation program and payment of  
23 a fee to the program of not less than Fifteen Dollars  
24 (\$15.00) nor more than Sixty Dollars (\$60.00) as set

1 by the governing authority of the program to offset  
2 the cost of participation by the defendant. Provided,  
3 each victim/offender reconciliation program shall be  
4 required to obtain a written consent form voluntarily  
5 signed by the victim and defendant that specifies the  
6 methods to be used to resolve the issues, the  
7 obligations and rights of each person, and the  
8 confidentiality of the proceedings. Volunteer  
9 mediators and employees of a victim/offender  
10 reconciliation program shall be immune from liability  
11 and have rights of confidentiality as provided in  
12 Section 1805 of Title 12 of the Oklahoma Statutes,  
13 n. to install, at the expense of the defendant, an  
14 ignition interlock device approved by the Board of  
15 Tests for Alcohol and Drug Influence. The device  
16 shall be installed upon every motor vehicle operated  
17 by the defendant, and the court shall require that a  
18 notation of this restriction be affixed to the  
19 defendant's driver license. The restriction shall  
20 remain on the driver license not exceeding two (2)  
21 years to be determined by the court. The restriction  
22 may be modified or removed only by order of the court  
23 and notice of any modification order shall be given to  
24 the Department of Public Safety. Upon the expiration

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

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



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

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

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

1 or person-to-person contacts as specified by the  
2 court,

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

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

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

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

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

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

1 supervision. The examination shall be administered by  
2 a certified licensed polygraph examiner. The  
3 treatment program must be approved by the Department  
4 of Corrections or the Department of Mental Health and  
5 Substance Abuse Services. Such treatment shall be at  
6 the expense of the defendant based on the defendant's  
7 ability to pay,

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

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

1 (\$25.00) for each check upon filing of the case in  
2 district court. This money shall be deposited in the  
3 Bogus Check Restitution Program Fund as established in  
4 subsection B of Section 114 of this title.

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

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

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

15 However, unless under the supervision of the district attorney,  
16 the offender shall be required to pay Forty Dollars (\$40.00) per  
17 month to the district attorney during the first two (2) years of  
18 probation to compensate the district attorney for the costs incurred  
19 during the prosecution of the offender and for the additional work  
20 of verifying the compliance of the offender with the rules and  
21 conditions of his or her probation. The district attorney may waive  
22 any part of this requirement in the best interests of justice. The  
23 court shall not waive, suspend, defer or dismiss the costs of  
24 prosecution in its entirety. However, if the court determines that

1 a reduction in the fine, costs and costs of prosecution is  
2 warranted, the court shall equally apply the same percentage  
3 reduction to the fine, costs and costs of prosecution owed by the  
4 offender;

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

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

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

20 5. Order the defendant to reimburse the Oklahoma State Bureau  
21 of Investigation for all costs incurred by that agency for cleaning  
22 up an illegal drug laboratory site for which the defendant pleaded  
23 guilty, nolo contendere or was convicted. The court clerk shall  
24 collect the amount and may retain five percent (5%) of such monies

1 to be deposited in the Court Clerk Revolving Fund to cover  
2 administrative costs and shall remit the remainder to the Oklahoma  
3 State Bureau of Investigation to be deposited in the OSBI Revolving  
4 Fund established by Section 150.19a of Title 74 of the Oklahoma  
5 Statutes;

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

8 7. In addition to the other sentencing powers of the court, in  
9 the case of a person convicted of operating or being in control of a  
10 motor vehicle while the person was under the influence of alcohol,  
11 other intoxicating substance, or a combination of alcohol or another  
12 intoxicating substance, or convicted of operating a motor vehicle  
13 while the ability of the person to operate such vehicle was impaired  
14 due to the consumption of alcohol, require such person:

15 a. to participate in an alcohol and drug assessment and  
16 evaluation by an assessment agency or assessment  
17 personnel certified by the Department of Mental Health  
18 and Substance Abuse Services pursuant to Section 3-460  
19 of Title 43A of the Oklahoma Statutes and, as  
20 determined by the assessment, participate in an  
21 alcohol and drug substance abuse course or treatment  
22 program or both, pursuant to Sections 3-452 and 3-453  
23 of Title 43A of the Oklahoma Statutes,  
24



- b. to attend a victims impact panel program, as defined in subsection H of this section, if such a program is offered in the county where the judgment is rendered, and to pay a fee of not less than Fifteen Dollars (\$15.00) nor more than Sixty Dollars (\$60.00) as set by the governing authority of the program and approved by the court, to the program to offset the cost of participation by the defendant, if in the opinion of the court the defendant has the ability to pay such fee,
- c. to both participate in the alcohol and drug substance abuse course or treatment program, pursuant to subparagraph a of this paragraph and attend a victims impact panel program, pursuant to subparagraph b of this paragraph,
- d. to install, at the expense of the person, an ignition interlock device approved by the Board of Tests for Alcohol and Drug Influence, upon every motor vehicle operated by such person and to require that a notation of this restriction be affixed to the person's driver license at the time of reinstatement of the license. The restriction shall remain on the driver license for such period as the court shall determine. The restriction may be modified or removed by order of the

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

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

23 8. In addition to the other sentencing powers of the court, in  
24 the case of a person convicted of prostitution pursuant to Section

1 1029 of Title 21 of the Oklahoma Statutes, require such person to  
2 receive counseling for the behavior which may have caused such  
3 person to engage in prostitution activities. Such person may be  
4 required to receive counseling in areas including but not limited to  
5 alcohol and substance abuse, sexual behavior problems, or domestic  
6 abuse or child abuse problems;

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

14 10. In addition to the other sentencing powers of the court,  
15 the court, in the case of a sex offender sentenced after November 1,  
16 1989, and required by law to register pursuant to the Sex Offenders  
17 Registration Act, shall require the person to participate in a  
18 treatment program designed specifically for the treatment of sex  
19 offenders, if available. The treatment program will include  
20 polygraph examinations specifically designed for use with sex  
21 offenders for the purpose of supervision and treatment compliance,  
22 provided the examination is administered by a certified licensed  
23 polygraph examiner. The treatment program must be approved by the  
24 Department of Corrections or the Department of Mental Health and

1 Substance Abuse Services. Such treatment shall be at the expense of  
2 the defendant based on the defendant's ability to pay;

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

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

15 13. In addition to the other sentencing powers of the court, a  
16 sex offender who is habitual or aggravated as defined by Section 584  
17 of Title 57 of the Oklahoma Statutes and who is required to register  
18 as a sex offender pursuant to the Oklahoma Sex Offenders  
19 Registration Act shall be supervised by the Department of  
20 Corrections for the duration of the registration period and shall be  
21 assigned to a global position monitoring device by the Department of  
22 Corrections for the duration of the registration period. The cost  
23 of such monitoring device shall be reimbursed by the offender;  
24

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

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

16 B. Notwithstanding any other provision of law, any person who  
17 is found guilty of a violation of any provision of Section 761 or  
18 11-902 of Title 47 of the Oklahoma Statutes or any person pleading  
19 guilty or nolo contendere for a violation of any provision of such  
20 sections shall be ordered to participate in, prior to sentencing, an  
21 alcohol and drug assessment and evaluation by an assessment agency  
22 or assessment personnel certified by the Department of Mental Health  
23 and Substance Abuse Services for the purpose of evaluating the  
24 receptivity to treatment and prognosis of the person. The court

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

1 confidential from the general public's review. Nothing contained in  
2 this subsection shall be construed to prohibit the court from  
3 ordering judgment and sentence in the event the defendant fails or  
4 refuses to comply with an order of the court to obtain the  
5 evaluation required by this subsection.

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

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

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

6 E. Probation, for purposes of subsection A of this section, is  
7 a procedure by which a defendant found guilty of a crime, whether  
8 upon a verdict or plea of guilty or upon a plea of nolo contendere,  
9 is released by the court subject to conditions imposed by the court  
10 and subject to supervision by the Department of Corrections, a  
11 private supervision provider or other person designated by the  
12 court. Such supervision shall be initiated upon an order of  
13 probation from the court, and shall not exceed two (2) years, unless  
14 a petition alleging a violation of any condition of deferred  
15 judgment or seeking revocation of the suspended sentence is filed  
16 during the supervision, or as otherwise provided by law. In the  
17 case of a person convicted of a sex offense, supervision shall begin  
18 immediately upon release from incarceration or if parole is granted  
19 and shall not be limited to two (2) years. Provided further, any  
20 supervision provided for in this section may be extended for a  
21 period not to exceed the expiration of the maximum term or terms of  
22 the sentence upon a determination by the court or the Division of  
23 Probation and Parole of the Department of Corrections that the best  
24



1 interests of the public and the release will be served by an  
2 extended period of supervision.

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

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

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

18 3. The Department shall establish criteria and specifications  
19 for contracts with counties for such Programs. A county may apply  
20 to the Department for a contract for a county-funded Program for a  
21 specific period of time. The Department shall be responsible for  
22 ensuring that any contracting county complies in full with  
23 specifications and requirements of the contract. The contract shall  
24

1 set appropriate compensation to the county for services to the  
2 Department.

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

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

14 H. As used in this section:

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

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

1        3. "Victims impact panel program" means a meeting with at least  
2 one live presenter who will share personal stories with participants  
3 about how alcohol, drug abuse and the illegal conduct of others has  
4 personally impacted the life of the presenter. A victims impact  
5 panel program shall be attended by persons who have committed the  
6 offense of driving, operating or being in actual physical control of  
7 a motor vehicle while under the influence of alcohol or other  
8 intoxicating substance. Persons attending a victims impact panel  
9 program shall be required to pay a fee of not less than Fifteen  
10 Dollars (\$15.00) nor more than Sixty Dollars (\$60.00) to the  
11 provider of the program. A certificate of completion shall be  
12 issued to the person upon satisfying the attendance and fee  
13 requirements of the victims impact panel program. A victims impact  
14 panel program shall not be provided by any certified assessment  
15 agency or certified assessor. The provider of the victims impact  
16 panel program shall carry general liability insurance and maintain  
17 an accurate accounting of all business transactions and funds  
18 received in relation to the victims impact panel program.

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

1 Bureau of Investigation for the OSBI Combined DNA Index System  
2 (CODIS) Database. Subject to the availability of funds, any person  
3 convicted of a misdemeanor offense of assault and battery, domestic  
4 abuse, stalking, possession of a controlled substance prohibited  
5 under Schedule IV of the Uniform Controlled Dangerous Substances  
6 Act, outraging public decency, resisting arrest, escape or  
7 attempting to escape, eluding a police officer, peeping tom,  
8 pointing a firearm, unlawful carry of a firearm, illegal transport  
9 of a firearm, discharging of a firearm, threatening an act of  
10 violence, breaking and entering a dwelling place, destruction of  
11 property, negligent homicide, or causing a personal injury accident  
12 while driving under the influence of any intoxicating substance, or  
13 any alien unlawfully present under federal immigration law, upon  
14 arrest, shall submit to deoxyribonucleic acid DNA testing for law  
15 enforcement identification purposes in accordance with Section  
16 150.27 of Title 74 of the Oklahoma Statutes and the rules  
17 promulgated by the Oklahoma State Bureau of Investigation for the  
18 OSBI Combined DNA Index System (CODIS) Database. Any defendant  
19 sentenced to probation shall be required to submit to testing within  
20 thirty (30) days of sentencing ~~either~~ to the Department of  
21 Corrections ~~or to,~~ the county sheriff or other peace officer as  
22 directed by the court, or the office of the district attorney.  
23 Defendants who are sentenced to a term of incarceration shall submit  
24 to testing in accordance with Section 530.1 of Title 57 of the

Oklahoma Statutes, for those defendants who enter the custody of the Department of Corrections or to the county sheriff, for those defendants sentenced to incarceration in a county jail. Convicted individuals who have previously submitted to DNA testing under this section and for whom a valid sample is on file in the OSBI Combined DNA Index System (CODIS) Database at the time of sentencing shall not be required to submit to additional testing. Except as required by the Sex Offenders Registration Act, a deferred judgment does not require submission to deoxyribonucleic acid testing.

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

J. Samples of blood or saliva for DNA testing required by subsection I of this section shall be taken by employees or contractors of the Department of Corrections, peace officers, ~~or~~ the county sheriff or employees or contractors of the sheriff's office, or employees or contractors of the district attorney. The

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

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

23 SECTION 2. AMENDATORY 74 O.S. 2011, Section 150.27a, is  
24 amended to read as follows:

1       Section 150.27a A. There is hereby established within the  
2 Oklahoma State Bureau of Investigation the OSBI Combined DNA Index  
3 System (CODIS) Database for the purpose of collecting and storing  
4 blood or saliva samples and DNA profiles, analyzing and typing of  
5 the genetic markers contained in or derived from DNA, and  
6 maintaining the records and samples of DNA of individuals convicted  
7 of any felony offense, of individuals required to register pursuant  
8 to the Sex Offenders Registration Act, and subject to the  
9 availability of funds, of individuals convicted of a misdemeanor  
10 offense of assault and battery, domestic abuse, stalking, possession  
11 of a controlled substance prohibited under Schedule IV of the  
12 Uniform Controlled Dangerous Substances Act, outraging public  
13 decency, resisting arrest, escape or attempting to escape, eluding a  
14 police officer, peeping tom, pointing a firearm, unlawful carry of a  
15 firearm, illegal transport of a firearm, discharging of a firearm,  
16 threatening an act of violence, breaking and entering a dwelling  
17 place, destruction of property, negligent homicide, or causing a  
18 personal injury accident while driving under the influence of any  
19 intoxicating substance, or, upon arrest, any alien unlawfully  
20 present under federal immigration law. The purpose of this database  
21 is the detection or exclusion of individuals who are subjects of the  
22 investigation or prosecution of sex-related crimes, violent crimes,  
23 or other crimes in which biological evidence is recovered, and such  
24 information shall be used for no other purpose.

1 B. Any DNA specimen taken in good faith by the Department of  
2 Corrections, its employees or contractors, ~~or~~ the county sheriff,  
3 its employees or contractors, or employees or contractors of a  
4 district attorney and submitted to the OSBI may be included,  
5 maintained, and kept by the OSBI in a database for criminal  
6 investigative purposes despite the specimen having not been taken in  
7 strict compliance with the provisions of this section or Section  
8 991a of Title 22 of the Oklahoma Statutes.

9 C. Upon the request to OSBI by the federal or state authority  
10 having custody of the person, any individual who was convicted of  
11 violating laws of another state or the federal government, but is  
12 currently incarcerated or residing in Oklahoma, shall submit to DNA  
13 profiling for entry of the data into the OSBI DNA Offender Database.  
14 This provision shall only apply when such federal or state  
15 conviction carries a requirement of sex offender registration and/or  
16 DNA profiling. The person to be profiled shall pay a fee of One  
17 Hundred Fifty Dollars (\$150.00) to the OSBI.

18 D. The OSBI Combined DNA Index System (CODIS) Database is  
19 specifically exempt from any statute requiring disclosure of  
20 information to the public. The information contained in the  
21 database is privileged from discovery and inadmissible as evidence  
22 in any civil court proceeding. The information in the database is  
23 confidential and shall not be released to the public. Any person  
24 charged with the custody and dissemination of information from the



1 database shall not divulge or disclose any such information except  
2 to federal, state, county or municipal law enforcement or criminal  
3 justice agencies. Any person violating the provisions of this  
4 section upon conviction shall be deemed guilty of a misdemeanor  
5 punishable by imprisonment in the county jail for not more than one  
6 (1) year.

7 E. The OSBI shall promulgate rules concerning the collection,  
8 storing, expungement and dissemination of information and samples  
9 for the OSBI Combined DNA Index System (CODIS) Database. The OSBI  
10 shall determine the type of equipment, collection procedures, and  
11 reporting documentation to be used by the Department of Corrections  
12 ~~or,~~ a county sheriff's office, or office of a district attorney in  
13 submitting DNA samples to the OSBI in accordance with Section 991a  
14 of Title 22 of the Oklahoma Statutes. The OSBI shall provide  
15 training to designated employees of the Department of Corrections  
16 ~~and,~~ a county sheriff's office, or office of a district attorney in  
17 the proper methods of performing the duties required by this  
18 section.

19 F. The OSBI Combined DNA Index System (CODIS) Database may  
20 include secondary databases and indexes including, but not limited  
21 to:

22 1. Forensic index database consisting of unknown evidence  
23 samples;  
24

1        2. Suspect index database consisting of samples taken from  
2 individuals as a result of criminal investigations;

3        3. Convicted offender index database authorized pursuant to  
4 subsection A of this section; and

5        4. Missing persons and unidentified remains index or database  
6 consisting of DNA profiles from unidentified remains and relatives  
7 of missing persons.

8        G. Any person convicted of a felony offense who is in custody  
9 shall provide a blood or saliva sample prior to release. Subject to  
10 the availability of funds, any person convicted of a misdemeanor  
11 offense of assault and battery, domestic abuse, stalking, possession  
12 of a controlled substance prohibited under Schedule IV of the  
13 Uniform Controlled Dangerous Substances Act, outraging public  
14 decency, resisting arrest, escape or attempting to escape, eluding a  
15 police officer, peeping tom, pointing a firearm, unlawful carry of a  
16 firearm, illegal transport of a firearm, discharging of a firearm,  
17 threatening an act of violence, breaking and entering a dwelling  
18 place, destruction of property, negligent homicide, or causing a  
19 personal injury incident while driving under the influence of any  
20 intoxicating substance who is in custody shall provide a blood or  
21 saliva sample prior to release. Every person who is convicted of a  
22 felony offense whose sentence does not include a term of  
23 incarceration shall provide a blood or saliva sample as a condition  
24 of sentence. Subject to the availability of funds, every person who

1 is convicted of a misdemeanor offense of assault and battery,  
2 domestic abuse, stalking, possession of a controlled substance  
3 prohibited under Schedule IV of the Uniform Controlled Dangerous  
4 Substances Act, outraging public decency, resisting arrest, escape  
5 or attempting to escape, eluding a police officer, peeping tom,  
6 pointing a firearm, unlawful carry of a firearm, illegal transport  
7 of a firearm, discharging of a firearm, threatening an act of  
8 violence, breaking and entering a dwelling place, destruction of  
9 property, negligent homicide, or causing a personal injury accident  
10 while driving under the influence of any intoxicating substance  
11 whose sentence does not include a term of incarceration shall  
12 provide a blood or saliva sample as a condition of sentence.

13 SECTION 3. This act shall become effective November 1, 2015.

14  
15 COMMITTEE REPORT BY: COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS,  
16 dated 02/11/2015 - DO PASS, As Coauthored.  
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