

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

HOUSE BILL 2937

By: McCullough

AS INTRODUCED

An Act relating to criminal procedure; amending 22 O.S. 2011, Sections 471.2, as amended by Section 2, Chapter 228, O.S.L. 2012 and 471.6 (22 O.S. Supp. 2015, Section 471.2), which relate to the Oklahoma Drug Court Act; modifying consideration and eligibility requirements for drug court participants; amending 22 O.S. 2011, Section 472, as amended by Section 1, Chapter 180, O.S.L. 2014 (22 O.S. Supp. 2015, Section 472), which relates to the Anna McBride Act; modifying eligibility and entry requirements for mental health court participants; amending 22 O.S. 2011, Section 991a, as last amended by Section 1, Chapter 157, O.S.L. 2014 (22 O.S. Supp. 2015, Section 991a), which relates to sentencing powers of the court; providing qualifiers for individuals being considered for prison diversionary programs; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2011, Section 471.2, as amended by Section 2, Chapter 228, O.S.L. 2012 (22 O.S. Supp. 2015, Section 471.2), is amended to read as follows:

Section 471.2 A. The initial opportunity for review of an offender for a drug court program shall occur within four (4) days after the arrest and detention or incarceration of the offender in

1 the city or county jail, or if an immediate bond release program is
2 available through the jail, the initial opportunity for review shall
3 occur in conjunction with the bond release program. When a drug
4 court is established, the following information shall be initially
5 reviewed by the sheriff or designee, if the offender is held in a
6 county jail, or by the chief of police or designee, if the offender
7 is held in a city jail:

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

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

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

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

22 5. The offender:

- 23 a. admits to having a substance abuse addiction,
- 24 b. appears to have a substance abuse addiction,

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

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

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

18 1. A full description of the drug court process and
19 investigation;

20 2. A general explanation of the roles and authority of the
21 supervising staff, the district attorney, the defense attorney, the
22 treatment provider, the offender, and the judge in the drug court
23 program;
24

1 3. A clear statement that the drug court judge may decide after
2 a hearing not to consider the offender for the drug court program
3 and in that event the offender will be prosecuted in the traditional
4 manner;

5 4. A clear statement that the offender is required, before
6 consideration ~~in~~ for the program, to enter a guilty plea as part of
7 a written plea agreement;

8 5. A clear statement that the plea agreement will specify the
9 offense to which the guilty plea will be entered and will state any
10 penalty to be imposed for the offense, both in the event of a
11 successful completion of the drug court program, and in the event of
12 a failure to complete the program;

13 6. A clear statement that the offender must voluntarily agree
14 to:

- 15 a. waive the right to a speedy trial,
- 16 b. waive the right to a preliminary hearing,
- 17 c. the terms and conditions of a treatment plan, and
- 18 d. sign a performance contract with the court;

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

23 8. A clear statement that during participation in the drug
24 court program should the offender fail to comply with the terms of

1 the agreement, the offender may be sanctioned to serve a term of
2 confinement of six (6) months in an intermediate revocation facility
3 operated by the Department of Corrections. An offender shall not be
4 allowed to serve more than two separate terms of confinement in an
5 intermediate revocation facility;

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

- 8 a. fail to comply with the terms of the agreements,
- 9 b. be convicted of a misdemeanor offense which reflects a
10 propensity for violence,
- 11 c. be arrested for a violent felony offense, or
- 12 d. be convicted of any felony offense,

13 the offender may be required, after a court hearing, to be revoked
14 from the program and sentenced without trial pursuant to the
15 punishment provisions of the negotiated plea agreement; ~~and~~

16 10. An explanation of the criminal record retention and
17 disposition resulting from participation in the drug court program
18 following successful completion of the program;

19 11. A clear statement that the offender is required, before
20 consideration for the drug court program, to agree to participate in
21 a comprehensive physical health screening and substance abuse
22 diagnostic assessment to determine if the offender is alcohol- or
23 opioid-dependent and an eligible candidate for the administration of
24 the extended-release injectable naltrexone. Refusal by the offender

1 to agree to submit to a comprehensive physical health screening and
2 substance abuse diagnostic assessment shall make the offender
3 ineligible for consideration for the drug court program; and

4 12. A clear statement that the offender is required, before
5 consideration for the drug court program, to agree to submit to the
6 administration of extended-release injectable naltrexone if the
7 findings of the comprehensive physical health screening and
8 substance abuse diagnostic assessment required in paragraph 11 of
9 this subsection indicate that the offender is an eligible candidate
10 for the extended-release injectable naltrexone.

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

13 a. if the offender is incarcerated, the offender must
14 sign and complete the eligibility form and return it
15 to the sheriff, if the offender is held in the county
16 jail; or to the chief of police, if the offender is
17 held in a city jail. The sheriff or chief of police,
18 upon receipt of the eligibility form, shall file the
19 form with the district attorney at the time of filing
20 the criminal case record or at any time during the
21 period of incarceration when the offender completes
22 the form after the criminal case record has been
23 filed, or
24

1 b. after release of the offender from incarceration, the
2 offender must sign and complete the eligibility form
3 and file it with the district attorney or the court,
4 prior to or at the time of either initial appearance
5 or arraignment.

6 2. Any offender desiring legal consultation prior to signing or
7 completing the form for consideration ~~in~~ for a drug court program
8 shall be referred to the defense attorney of the drug court team, or
9 a public defender, if the offender is indigent, or allowed to
10 consult with private legal counsel.

11 3. Nothing contained in the provisions of this subsection shall
12 prohibit the drug court from considering any offender deemed
13 eligible for the program at any time prior to sentencing whose case
14 has been prosecuted in the traditional manner, or upon a violation
15 of parole or probation conditions relating to substance abuse, upon
16 recommendation of the district attorney as provided in Section 471.8
17 of this title.

18 D. When an offender has filed a voluntary request to be
19 considered for a drug court program on the appropriate form, the
20 district attorney shall indicate his or her approval of the request
21 by filing the form with the drug court judge. Upon the filing of
22 the request form by the district attorney, an initial hearing shall
23 be set before the drug court judge. The hearing shall be not less
24 than three (3) work days nor more than five (5) work days after the

1 date of the filing of the request form. Notice of the hearing shall
2 be given to the drug court team, or in the event no drug court team
3 is designated, to the offender, the district attorney, and to the
4 public defender. The offender shall be required to notify any
5 private legal counsel of the date and time of the hearing.

6 SECTION 2. AMENDATORY 22 O.S. 2011, Section 471.6, is
7 amended to read as follows:

8 Section 471.6 A. The drug court judge shall conduct a hearing
9 as required by subsection E of Section 471.4 of this title to
10 determine final eligibility by considering:

11 1. Whether or not the offender voluntarily consents to the
12 program requirements;

13 2. Whether or not to accept the offender based upon the
14 findings and recommendations of the drug court investigation
15 authorized by Section 471.4 of this title;

16 3. Whether or not there is a written plea agreement, and if so,
17 whether the terms and conditions of the written negotiated plea
18 between the district attorney, the defense attorney, and the
19 offender are appropriate and consistent with the penalty provisions
20 and conditions of other similar cases;

21 4. Whether or not there is an appropriate treatment program
22 available to the offender and whether or not there is a recommended
23 treatment plan; ~~and~~
24

1 5. Whether or not the offender agreed to participate in a
2 comprehensive physical health screening and substance abuse
3 diagnostic assessment to determine if the offender is alcohol- or
4 opioid-dependent and an eligible candidate for the administration of
5 the extended-release injectable naltrexone;

6 6. Whether or not the offender agreed to submit to the
7 administration of extended-release injectable naltrexone if the
8 findings of the comprehensive physical health screening and
9 substance abuse diagnostic assessment indicate that the offender is
10 an eligible candidate for the extended-release injectable
11 naltrexone; and

12 7. Any information relevant to determining eligibility;
13 provided, however, an offender shall not be denied admittance to any
14 drug court program based upon an inability to pay court costs or
15 other costs or fees.

16 B. At the hearing to determine final eligibility for the drug
17 court program, the judge shall not grant any admission of any
18 offender to the program when:

19 1. The required treatment plan and plea agreement have not been
20 completed;

21 2. The program funding or availability of treatment has been
22 exhausted;

23 3. The treatment program is unwilling to accept the offender;
24

1 4. The offender was ineligible for consideration by the nature
2 of a violent offense at the time of arrest, and the charge has been
3 modified to meet the eligibility criteria of the program; ~~or~~

4 5. The offender is inappropriate for admission to the program,
5 in the discretion of the judge;

6 6. The offender refused to agree to submit to a comprehensive
7 physical health screening and substance abuse diagnostic assessment
8 for purposes of determining alcohol or opioid dependency and
9 eligibility for the administration of extended-release injectable
10 naltrexone; or

11 7. The offender refused to agree to submit to the
12 administration of extended-release injectable naltrexone, if
13 findings of the comprehensive physical health screening and
14 substance abuse diagnostic assessment indicate the offender is an
15 eligible candidate for the extended-release injectable naltrexone.

16 C. At the final eligibility hearing, if evidence is presented
17 that was not discovered by the drug court investigation, the
18 district attorney or the defense attorney may make an objection and
19 may ask the court to withdraw the plea agreement previously
20 negotiated. The court shall determine whether to proceed and
21 overrule the objection, to sustain the objection and transfer the
22 case for traditional criminal prosecution, or to require further
23 negotiations of the plea or punishment provisions. The decision of
24 the judge for or against eligibility and admission shall be final.

1 D. When the court accepts the treatment plan with the written
2 plea agreement, the offender, upon entering the plea as agreed by
3 the parties, shall be ordered and escorted immediately into the
4 program. The offender must have voluntarily signed the necessary
5 court documents before the offender may be admitted to treatment.
6 The court documents shall include:

7 1. Waiver of the offender's rights to speedy trial;

8 2. A written plea agreement which sets forth the offense
9 charged, the penalty to be imposed for the offense in the event of a
10 breach of the agreement, and the penalty to be imposed, if any, in
11 the event of a successful completion of the treatment program;
12 provided, however, incarceration shall be prohibited when the
13 offender completes the treatment program;

14 3. A written treatment plan which is subject to modification at
15 any time during the program; and

16 4. A written performance contract requiring the offender to
17 enter the treatment program as directed by the court and ~~participate~~
18 participation until completion, withdrawal, or removal by the court.

19 E. If admission into the drug court program is denied, the
20 criminal case shall be returned to the traditional criminal docket
21 and shall proceed as provided for any other criminal case.

22 F. At the time an offender is admitted to the drug court
23 program, any bail or undertaking on behalf of the offender shall be
24 exonerated.

1 G. The period of time during which an offender may participate
2 in the active treatment portion of the drug court program shall be
3 not less than six (6) months nor more than twenty-four (24) months
4 and may include a period of supervision not less than six (6) months
5 nor more than one (1) year following the treatment portion of the
6 program. The period of supervision may be extended by order of the
7 court for not more than six (6) months. No treatment dollars shall
8 be expended on the offender during the extended period of
9 supervision. If the court orders that the period of supervision
10 shall be extended, the drug court judge, the district attorney, the
11 attorney for the offender, and the supervising staff for the drug
12 court program shall evaluate the appropriateness of continued
13 supervision on a quarterly basis. All participating treatment
14 providers shall be certified by the Department of Mental Health and
15 Substance Abuse Services and shall be selected and evaluated for
16 performance-based effectiveness annually by the Department of Mental
17 Health and Substance Abuse Services. Treatment programs shall be
18 designed to be completed within twelve (12) months and shall have
19 relapse prevention and evaluation components.

20 H. The drug court judge shall order the offender to pay court
21 costs, treatment costs, drug testing costs, a program user fee not
22 to exceed Twenty Dollars (\$20.00) per month, and necessary
23 supervision fees, unless the offender is indigent. The drug court
24 judge shall establish a schedule for the payment of costs and fees.

1 The cost for treatment, drug testing, and supervision shall be set
2 by the treatment and supervision providers respectively and made
3 part of the court's order for payment. User fees shall be set by
4 the drug court judge within the maximum amount authorized by this
5 subsection and payable directly to the court clerk for the benefit
6 and administration of the drug court program. Treatment, drug
7 testing, and supervision costs shall be paid to the respective
8 providers. The court clerk shall collect all other costs and fees
9 ordered. The remaining user fees shall be remitted to the State
10 Treasurer by the court clerk for deposit in the Department of Mental
11 Health and Substance Abuse Services' Drug Abuse Education and
12 Treatment Revolving Fund established pursuant to Section 2-503.2 of
13 Title 63 of the Oklahoma Statutes. Court orders for costs and fees
14 pursuant to this subsection shall not be limited for purposes of
15 collection to the maximum term of imprisonment for which the
16 offender could have been imprisoned for the offense, nor shall any
17 court order for costs and fees be limited by any term of probation,
18 parole, supervision, treatment, or extension thereof. Court orders
19 for costs and fees shall remain an obligation of the offender until
20 fully paid. Offenders who have not fully paid all costs and fees
21 pursuant to court order but who have otherwise successfully
22 completed the drug court program shall not be counted as an active
23 drug court participant for purposes of drug court contracts or
24 program participant numbers.

1 I. Notwithstanding any other provision of law, if the driving
2 privileges of the offender have been suspended, revoked, cancelled
3 or denied by the Department of Public Safety and if the drug court
4 judge determines that no other means of transportation for the
5 offender is available, the drug court judge may enter a written
6 order requiring the Department of Public Safety to stay any and all
7 such actions against the Class D driving privileges of the offender;
8 provided, the stay shall not be construed to grant driving
9 privileges to an offender who has not been issued a driver license
10 by the Department or whose Oklahoma driver license has expired, in
11 which case the offender shall be required to apply for and be found
12 eligible for a driver license, pass all examinations, if applicable,
13 and pay all statutory driver license issuance or renewal fees. The
14 offender shall provide proof of insurance to the drug court judge
15 prior to the judge ordering a stay of any driver license suspension,
16 revocation, cancellation, or denial. When a judge of a drug court
17 enters a stay against an order by the Department of Public Safety
18 suspending or revoking the driving privileges of an offender, the
19 time period set in the order by the Department for the suspension or
20 revocation shall continue to run during the stay.

21 SECTION 3. AMENDATORY 22 O.S. 2011, Section 472, as
22 amended by Section 1, Chapter 180, O.S.L. 2014 (22 O.S. Supp. 2015,
23 Section 472), is amended to read as follows:
24

1 Section 472. A. This section shall be known and may be cited
2 as the "Anna McBride Act".

3 B. Any district or municipal court of this state may establish
4 a mental health court program pursuant to the provisions of this
5 section, subject to the availability of funds.

6 C. The court may request assistance from the Department of
7 Mental Health and Substance Abuse Services which shall be the
8 primary agency to assist in developing and implementing a mental
9 health court program.

10 D. For purposes of this section, "mental health court" means a
11 judicial process that utilizes specially trained court personnel to
12 expedite the case and explore alternatives to incarceration for
13 offenders charged with criminal offenses other than a crime listed
14 in paragraph 2 of Section 571 of Title 57 of the Oklahoma Statutes
15 who have a mental illness or a developmental disability, or a co-
16 occurring mental illness and substance abuse disorder. The district
17 attorney's office may use discretion in the prosecution of those
18 offenders specified in this subsection subject to the restrictions
19 provided in subsection E of this section.

20 E. The court shall have the authority to exclude from mental
21 health court any offender arrested or charged with any violent
22 offense or any offender who has a prior felony conviction in this
23 state or another state for a violent offense. Eligibility and entry
24

1 by an offender into the mental health court program is dependent
2 upon prior:

3 1. Prior approval of the district attorney;

4 2. Agreement by the offender that the offender is required to
5 participate in a comprehensive physical health screening and
6 substance abuse diagnostic assessment to determine if the offender
7 is alcohol- or opioid-dependent and an eligible candidate for the
8 administration of the extended-release injectable naltrexone.

9 Refusal by the offender to agree to submit to a comprehensive
10 physical health screening and substance abuse diagnostic assessment
11 shall make the offender ineligible for consideration for the mental
12 health court program; and

13 3. Agreement by the offender that the offender is required to
14 agree to submit to the administration of extended-release injectable
15 naltrexone if findings of the comprehensive physical health
16 screening and substance abuse diagnostic assessment indicate that
17 the offender is an eligible candidate for the extended-release
18 injectable naltrexone.

19 Eligible ~~offenses~~ offenders may further be restricted by the
20 rules of the specific mental health court program. The court also
21 shall have the authority to exclude persons from the mental health
22 court program who have a propensity for violence.

23 F. The mental health court judge shall recognize relapses and
24 restarts in the program which shall be considered as part of the

1 rehabilitation and recovery process. The court shall accomplish
2 monitoring and offender accountability by ordering progressively
3 increasing sanctions or providing incentives, rather than removing
4 the offender from the program when a violation occurs, except when
5 the conduct of the offender requires revocation from the program.
6 Any revocation from the mental health court program shall require
7 notice to the offender and other participating parties in the case
8 and a revocation hearing. At the revocation hearing, if the
9 offender is found to have violated the conditions of the plea
10 agreement or performance contract and disciplinary sanctions have
11 been insufficient to gain compliance, the offender shall be revoked
12 from the program and sentenced for the offense as provided in the
13 plea agreement.

14 SECTION 4. AMENDATORY 22 O.S. 2011, Section 991a, as
15 last amended by Section 1, Chapter 157, O.S.L. 2014 (22 O.S. Supp.
16 2015, Section 991a), is amended to read as follows:

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

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

- 1 a. to provide restitution to the victim as provided by
2 Section 991f et seq. of this title or according to a
3 schedule of payments established by the sentencing
4 court, together with interest upon any pecuniary sum
5 at the rate of twelve percent (12%) per annum, if the
6 defendant agrees to pay such restitution or, in the
7 opinion of the court, if the defendant is able to pay
8 such restitution without imposing manifest hardship on
9 the defendant or the immediate family and if the
10 extent of the damage to the victim is determinable
11 with reasonable certainty,
- 12 b. to reimburse any state agency for amounts paid by the
13 state agency for hospital and medical expenses
14 incurred by the victim or victims, as a result of the
15 criminal act for which such person was convicted,
16 which reimbursement shall be made directly to the
17 state agency, with interest accruing thereon at the
18 rate of twelve percent (12%) per annum,
- 19 c. to engage in a term of community service without
20 compensation, according to a schedule consistent with
21 the employment and family responsibilities of the
22 person convicted,
- 23 d. to pay a reasonable sum into any trust fund,
24 established pursuant to the provisions of Sections 176

1 through 180.4 of Title 60 of the Oklahoma Statutes,
2 and which provides restitution payments by convicted
3 defendants to victims of crimes committed within this
4 state wherein such victim has incurred a financial
5 loss,

6 e. to ~~confinement~~ be confined in the county jail for a
7 period not to exceed six (6) months,

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

21 g. to repay the reward or part of the reward paid by a
22 local certified crime stoppers program and the
23 Oklahoma Reward System. In determining whether the
24 defendant shall repay the reward or part of the

1 reward, the court shall consider the ability of the
2 defendant to make the payment, the financial hardship
3 on the defendant to make the required payment, and the
4 importance of the information to the prosecution of
5 the defendant as provided by the arresting officer or
6 the district attorney with due regard for the
7 confidentiality of the records of the local certified
8 crime stoppers program and the Oklahoma Reward System.
9 The court shall assess this repayment against the
10 defendant as a cost of prosecution. The term
11 "certified" means crime stoppers organizations that
12 annually meet the certification standards for crime
13 stoppers programs established by the Oklahoma Crime
14 Stoppers Association to the extent those standards do
15 not conflict with state statutes. The term "court"
16 refers to all municipal and district courts within
17 this state. The "Oklahoma Reward System" means the
18 reward program established by Section 150.18 of Title
19 74 of the Oklahoma Statutes,

20 h. to reimburse the Oklahoma State Bureau of
21 Investigation for costs incurred by that agency during
22 its investigation of the crime for which the defendant
23 pleaded guilty, nolo contendere or was convicted,
24 including compensation for laboratory, technical, or

1 investigation services performed by the Bureau if, in
2 the opinion of the court, the defendant is able to pay
3 without imposing manifest hardship on the defendant,
4 and if the costs incurred by the Bureau during the
5 investigation of the defendant's case may be
6 determined with reasonable certainty,

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

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

- 1 k. to reimburse the court fund for amounts paid to court-
- 2 appointed attorneys for representing the defendant in
- 3 the case in which the person is being sentenced,
- 4 l. to participate in an assessment and evaluation by an
- 5 assessment agency or assessment personnel certified by
- 6 the Department of Mental Health and Substance Abuse
- 7 Services pursuant to Section 3-460 of Title 43A of the
- 8 Oklahoma Statutes and, as determined by the
- 9 assessment, participate in an alcohol and drug
- 10 substance abuse course or treatment program or both,
- 11 pursuant to Sections 3-452 and 3-453 of Title 43A of
- 12 the Oklahoma Statutes, or as ordered by the court,
- 13 m. to be placed in a victims impact panel program, as
- 14 defined in subsection H of this section, or
- 15 victim/offender reconciliation program and payment of
- 16 a fee to the program of not less than Fifteen Dollars
- 17 (\$15.00) nor more than Sixty Dollars (\$60.00) as set
- 18 by the governing authority of the program to offset
- 19 the cost of participation by the defendant. Provided,
- 20 each victim/offender reconciliation program shall be
- 21 required to obtain a written consent form voluntarily
- 22 signed by the victim and defendant that specifies the
- 23 methods to be used to resolve the issues, the
- 24 obligations and rights of each person, and the

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

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

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

1 records violations for investigation by a qualified
2 supervisory agency or person,

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

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

1 earned. The day fine shall be paid to the local
2 community sentencing system as reparation to the
3 community. Day fines shall be used to support the
4 local system,

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

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

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

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

19 dd. in the case of a person convicted of prostitution
20 pursuant to Section 1029 of Title 21 of the Oklahoma
21 Statutes, ~~require such person~~ to receive counseling
22 for the behavior which may have caused such person to
23 engage in prostitution activities. Such person may be
24 required to receive counseling in areas including but

1 not limited to alcohol and substance abuse, sexual
2 behavior problems, or domestic abuse or child abuse
3 problems,

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

1 shall be at the expense of the defendant based on the
2 defendant's ability to pay,

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

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

1 pay restitution and bogus check fees on any other
2 bogus check or checks that have been submitted to the
3 District Attorney Bogus Check Restitution Program, and
4 hh. to be subject to any other provision specifically
5 ordered by the court.

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

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

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

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

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

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

1 Fund established by Section 150.19a of Title 74 of the Oklahoma
2 Statutes;

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

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

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

21 b. to attend a victims impact panel program, as defined
22 in subsection H of this section, if such a program is
23 offered in the county where the judgment is rendered,
24 and to pay a fee of not less than Fifteen Dollars

1 (\$15.00) nor more than Sixty Dollars (\$60.00) as set
2 by the governing authority of the program and approved
3 by the court, to the program to offset the cost of
4 participation by the defendant, if in the opinion of
5 the court the defendant has the ability to pay such
6 fee,

7 c. to both participate in the alcohol and drug substance
8 abuse course or treatment program, pursuant to
9 subparagraph a of this paragraph and attend a victims
10 impact panel program, pursuant to subparagraph b of
11 this paragraph,

12 d. to install, at the expense of the person, an ignition
13 interlock device approved by the Board of Tests for
14 Alcohol and Drug Influence, upon every motor vehicle
15 operated by such person and to require that a notation
16 of this restriction be affixed to the person's driver
17 license at the time of reinstatement of the license.
18 The restriction shall remain on the driver license for
19 such period as the court shall determine. The
20 restriction may be modified or removed by order of the
21 court and notice of the order shall be given to the
22 Department of Public Safety. Upon the expiration of
23 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 such 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, or

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

19 8. ~~In addition to the other sentencing powers of the court, in~~
20 the case of a person convicted of prostitution pursuant to Section
21 1029 of Title 21 of the Oklahoma Statutes, require such person to
22 receive counseling for the behavior which may have caused such
23 person to engage in prostitution activities. Such person may be
24 required to receive counseling in areas including but not limited to

1 alcohol and substance abuse, sexual behavior problems, or domestic
2 abuse or child abuse problems;

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

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

23 11. ~~In addition to the other sentencing powers of the court,~~
24 ~~the court, in~~ the case of a person convicted of child abuse or

1 neglect, as defined in Section 1-1-105 of Title 10A of the Oklahoma
2 Statutes, ~~may~~ require the person to undergo treatment or to
3 participate in counseling services. The defendant may be required
4 to pay all or part of the cost of the treatment or counseling
5 services;

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

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

21 14. ~~In addition to the other sentencing powers of the court,~~ in
22 the case of a sex offender who is required by law to register
23 pursuant to the Sex Offenders Registration Act, ~~the court may~~
24 prohibit the person from accessing or using any Internet social

1 networking website that has the potential or likelihood of allowing
2 the sex offender to have contact with any child who is under the age
3 of eighteen (18) years; or

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

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

1 certified assessor or at another location as ordered by the court.
2 The agency or assessor shall, within seventy-two (72) hours from the
3 time the person is assessed, submit a written report to the court
4 for the purpose of assisting the court in its final sentencing
5 determination. No person, agency or facility operating an alcohol
6 and drug substance abuse evaluation program certified by the
7 Department of Mental Health and Substance Abuse Services shall
8 solicit or refer any person evaluated pursuant to this subsection
9 for any treatment program or alcohol and drug substance abuse
10 service in which such person, agency or facility has a vested
11 interest; however, this provision shall not be construed to prohibit
12 the court from ordering participation in or any person from
13 voluntarily utilizing a treatment program or alcohol and drug
14 substance abuse service offered by such person, agency or facility.
15 If a person is sentenced to the custody of the Department of
16 Corrections and the court has received a written evaluation report
17 pursuant to this subsection, the report shall be furnished to the
18 Department of Corrections with the judgment and sentence. Any
19 evaluation report submitted to the court pursuant to this subsection
20 shall be handled in a manner which will keep such report
21 confidential from the general public's review. Nothing contained in
22 this subsection shall be construed to prohibit the court from
23 ordering judgment and sentence in the event the defendant fails or
24

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

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

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

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

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; and

23 3. "Victims impact panel program" means a meeting with at least
24 one live presenter who will share personal stories with participants

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

17 I. A person convicted of a felony offense or receiving any form
18 of probation for an offense in which registration is required
19 pursuant to the Sex Offenders Registration Act, shall submit to
20 deoxyribonucleic acid DNA testing for law enforcement identification
21 purposes in accordance with Section 150.27 of Title 74 of the
22 Oklahoma Statutes and the rules promulgated by the Oklahoma State
23 Bureau of Investigation for the OSBI Combined DNA Index System
24 (CODIS) Database. Subject to the availability of funds, any person

1 convicted of a misdemeanor offense of assault and battery, domestic
2 abuse, stalking, possession of a controlled substance prohibited
3 under Schedule IV of the Uniform Controlled Dangerous Substances
4 Act, outraging public decency, resisting arrest, escape or
5 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, or
11 any alien unlawfully present under federal immigration law, upon
12 arrest, shall submit to deoxyribonucleic acid DNA testing for law
13 enforcement identification purposes in accordance with Section
14 150.27 of Title 74 of the Oklahoma Statutes and the rules
15 promulgated by the Oklahoma State Bureau of Investigation for the
16 OSBI Combined DNA Index System (CODIS) Database. Any defendant
17 sentenced to probation shall be required to submit to testing within
18 thirty (30) days of sentencing either to the Department of
19 Corrections or to the county sheriff or other peace officer as
20 directed by the court. Defendants who are sentenced to a term of
21 incarceration shall submit to testing in accordance with Section
22 530.1 of Title 57 of the Oklahoma Statutes, for those defendants who
23 enter the custody of the Department of Corrections or to the county
24 sheriff, for those defendants sentenced to incarceration in a county

1 jail. Convicted individuals who have previously submitted to DNA
2 testing under this section and for whom a valid sample is on file in
3 the OSBI Combined DNA Index System (CODIS) Database at the time of
4 sentencing shall not be required to submit to additional testing.
5 Except as required by the Sex Offenders Registration Act, a deferred
6 judgment does not require submission to deoxyribonucleic acid
7 testing.

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

18 J. Samples of blood or saliva for DNA testing required by
19 subsection I of this section shall be taken by employees or
20 contractors of the Department of Corrections, peace officers, or the
21 county sheriff or employees or contractors of the sheriff's office.
22 The individuals shall be properly trained to collect blood or saliva
23 samples. Persons collecting blood or saliva for DNA testing
24 pursuant to this section shall be immune from civil liabilities

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

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

20 L. Prior to sentencing a person to any type of prison
21 diversionary program, the court shall consider only those persons
22 who:

23 1. Have agreed to participate in a comprehensive physical
24 health screening and substance abuse diagnostic assessment to

1 determine if the person is alcohol- or opioid-dependent and an
2 eligible candidate for the administration of the extended-release
3 injectable naltrexone; and

4 2. Have agreed to submit to the administration of extended-
5 release injectable naltrexone if the findings of the comprehensive
6 physical health screening and substance abuse diagnostic assessment
7 indicate that the person is an eligible candidate for the extended-
8 release injectable naltrexone.

9 The court shall not grant any person admission into a prison
10 diversionary program if the person refuses to agree to submit to a
11 comprehensive physical health screening and substance abuse
12 diagnostic assessment required in paragraph 1 of this subsection or
13 refuses to agree to submit to the administration of extended-release
14 injectable naltrexone after determining the person is an eligible
15 candidate.

16 SECTION 5. This act shall become effective November 1, 2016.

17
18 55-2-7771 GRS 12/21/15
19
20
21
22
23
24