

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               1st Session of the 56th Legislature (2017)

4   HOUSE BILL 1609

                              By: Enns

7                               AS INTRODUCED

8           An Act relating to DNA samples; amending 20 O.S.  
9           2011, Section 1313.2, as amended by Section 2,  
10          Chapter 181, O.S.L. 2016 (20 O.S. Supp. 2016, Section  
11          1313.2), which relates to fees for certain  
12          convictions; deleting specific misdemeanor crimes  
13          from DNA fee requirement; amending 22 O.S. 2011,  
14          Section 991a, as last amended by Section 1, Chapter  
15          157, O.S.L. 2014 (22 O.S. Supp. 2016, Section 991a),  
16          which relates to sentencing powers of the court;  
17          deleting specific misdemeanor crimes from DNA testing  
18          requirement; amending 74 O.S. 2011, Section 150.27a,  
19          as amended by Section 3, Chapter 181, O.S.L. 2016 (74  
20          O.S. Supp. 2016, Section 150.27a), which relates to  
21          the OSBI Combined DNA Index System (CODIS) Database;  
22          deleting specific misdemeanor crimes from DNA testing  
23          requirement; and providing an effective date.

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

19           SECTION 1.           AMENDATORY           20 O.S. 2011, Section 1313.2, as  
20   amended by Section 2, Chapter 181, O.S.L. 2016 (20 O.S. Supp. 2016,  
21   Section 1313.2), is amended to read as follows:

22           Section 1313.2   A.   As used in this section:

23           1.   "Arrested" means taking custody of another for the purpose  
24   of holding or detaining him or her to answer a criminal charge;

1        2. "Convicted" means any final adjudication of guilt, whether  
2 pursuant to a plea of guilty or nolo contendere or otherwise, and  
3 any deferred or suspended sentence or judgment;

4        3. "Court" means any state or municipal court having  
5 jurisdiction to impose a criminal fine or penalty; and

6        4. "DNA" means Deoxyribonucleic acid.

7        B. Any person convicted of an offense, including traffic  
8 offenses but excluding parking and standing violations, punishable  
9 by a fine of Ten Dollars (\$10.00) or more or by incarceration or any  
10 person forfeiting bond when charged with such an offense, shall be  
11 ordered by the court to pay Nine Dollars (\$9.00) as a separate fee,  
12 which fee shall be in addition to and not in substitution for any  
13 and all fines and penalties otherwise provided for by law for such  
14 offense.

15        C. 1. Any person convicted of any misdemeanor or felony  
16 offense shall pay a Laboratory Analysis Fee in the amount of One  
17 Hundred Fifty Dollars (\$150.00) for each offense if forensic science  
18 or laboratory services are rendered or administered by the Oklahoma  
19 State Bureau of Investigation, by the Toxicology Laboratory of the  
20 Office of the Chief Medical Examiner or by any municipality or  
21 county in connection with the case. This fee shall be in addition  
22 to and not a substitution for any and all fines and penalties  
23 otherwise provided for by law for this offense.

1        2. The court clerk shall cause to be deposited the amount of  
2 One Hundred Fifty Dollars (\$150.00) as collected, for every  
3 conviction as described in this subsection. The court clerk shall  
4 remit the monies in the fund on a monthly basis directly either to:

5            a. the Oklahoma State Bureau of Investigation who shall  
6                deposit the monies into the OSBI Revolving Fund  
7                provided for in Section 150.19a of Title 74 of the  
8                Oklahoma Statutes for services rendered or  
9                administered by the Oklahoma State Bureau of  
10              Investigation,

11           b. the Office of the Chief Medical Examiner who shall  
12                deposit the monies into the Office of the Chief  
13                Medical Examiner Toxicology Laboratory Revolving Fund  
14                provided for in Section ~~954~~ 948 of Title 63 of the  
15                Oklahoma Statutes for services rendered or  
16                administered by the Toxicology Laboratory of the  
17                Office of the Chief Medical Examiner, or

18           c. the appropriate municipality or county for services  
19                rendered or administered by a municipality or county.

20        3. The monies from the Laboratory Analysis Fee Fund deposited  
21 into the OSBI Revolving Fund shall be used for the following:

22           a. providing criminalistic laboratory services,  
23           b. the purchase and maintenance of equipment for use by  
24                the laboratory in performing analysis,

- 1           c.    education, training, and scientific development of  
2               Oklahoma State Bureau of Investigation personnel, and  
3           d.    the destruction of seized property and chemicals as  
4               prescribed in Sections 2-505 and 2-508 of Title 63 of  
5               the Oklahoma Statutes.

6       D.   Upon conviction or bond forfeiture, the court shall collect  
7   the fee provided for in subsection B of this section and deposit it  
8   in an account created for that purpose. Except as otherwise  
9   provided in subsection E of this section, monies shall be forwarded  
10  monthly by the court clerk to the Council on Law Enforcement  
11  Education and Training. Beginning July 1, 2003, deposits shall be  
12  due on the fifteenth day of each month for the preceding calendar  
13  month. There shall be a late fee imposed for failure to make timely  
14  deposits; provided, the Council on Law Enforcement Education and  
15  Training, in its discretion, may waive all or part of the late fee.  
16  Such late fee shall be one percent (1%) of the principal amount due  
17  per day beginning from the tenth day after payment is due and  
18  accumulating until the late fee reaches one hundred percent (100%)  
19  of the principal amount due. Beginning on July 1, 1987, ninety  
20  percent (90%) of the monies received by the Council on Law  
21  Enforcement Education and Training from the court clerks pursuant to  
22  this section shall be deposited in the CLEET Fund, and ten percent  
23  (10%) shall be deposited in the General Revenue Fund. Beginning  
24  January 1, 2001, sixty and fifty-three one-hundredths percent

1 (60.53%) of the monies received by the Council on Law Enforcement  
2 Education and Training from the court clerks pursuant to this  
3 section shall be deposited in the CLEET Fund created pursuant to  
4 subsection G of this section, five and eighty-three one-hundredths  
5 percent (5.83%) shall be deposited in the General Revenue Fund and  
6 thirty-three and sixty-four one-hundredths percent (33.64%) shall be  
7 deposited in the CLEET Training Center Revolving Fund created  
8 pursuant to Section 3311.6 of Title 70 of the Oklahoma Statutes.  
9 Along with the deposits required by this subsection, each court  
10 shall also submit a report stating the total amount of funds  
11 collected and the total number of fees imposed during the preceding  
12 quarter. The report may be made on computerized or manual  
13 disposition reports.

14 E. Any municipality or county having a basic law enforcement  
15 academy approved by the Council on Law Enforcement Education and  
16 Training pursuant to the criteria developed by the Council for  
17 training law enforcement officers shall retain from monies collected  
18 pursuant to subsections A through D of this section, Two Dollars  
19 (\$2.00) from each fee. These monies shall be deposited into an  
20 account for the sole use of the municipality or county in  
21 implementing its law enforcement training functions. Not more than  
22 seven percent (7%) of the monies shall be used for court and  
23 prosecution training. The court clerk of any such municipality or  
24

1 county shall furnish to the Council on Law Enforcement Education and  
2 Training the report required by subsection D of this section.

3 F. 1. Any person entering a plea of guilty or nolo contendere  
4 or is found guilty of the crime of misdemeanor possession of  
5 marijuana or drug paraphernalia shall be ordered by the court to pay  
6 a five-dollar fee, which shall be in addition to and not in  
7 substitution for any and all fines and penalties otherwise provided  
8 for by law for such offense.

9 2. The court clerk shall cause to be deposited the amount of  
10 Five Dollars (\$5.00) as collected, for every adjudicated or  
11 otherwise convicted person as described in this subsection. The  
12 court clerk shall remit the monies in the fund on a monthly basis  
13 directly to the Bureau of Narcotics Drug Education Revolving Fund.

14 G. There is hereby created in the State Treasury a fund for the  
15 Council on Law Enforcement Education and Training to be designated  
16 the "CLEET Fund". The fund shall be subject to legislative  
17 appropriation and shall consist of any monies received from fees and  
18 receipts collected pursuant to the Oklahoma Open Records Act,  
19 reimbursements for parts used in the repair of weapons of law  
20 enforcement officers attending the basic academies, gifts, bequests,  
21 contributions, tuition, fees, devises, and the assessments levied  
22 pursuant to the fund pursuant to law.

23 H. 1. Any person arrested or convicted of a felony offense or  
24 convicted of a misdemeanor offense of assault and battery, domestic

1 abuse, stalking, possession of a controlled substance prohibited  
2 under Schedule IV of the Uniform Controlled Dangerous Substances  
3 Act, outraging public decency, resisting arrest, escaping or  
4 attempting to escape, eluding a police officer, Peeping Tom,  
5 pointing a firearm, ~~unlawful carry of a firearm, illegal transport~~  
6 ~~of a firearm, discharging of a firearm,~~ threatening an act of  
7 violence, breaking and entering a dwelling place, destruction of  
8 property, negligent homicide or causing a personal injury accident  
9 while driving under the influence of any intoxicating substance  
10 shall pay a DNA fee of One Hundred Fifty Dollars (\$150.00). This  
11 fee shall not be collected if the person has a valid DNA sample in  
12 the OSBI DNA Offender Database at the time of sentencing.

13 2. The court clerk shall cause to be deposited the amount of  
14 One Hundred Fifty Dollars (\$150.00) as collected for every felony  
15 arrest, felony conviction or every conviction for a misdemeanor  
16 offense of assault and battery, domestic abuse, stalking, possession  
17 of a controlled substance prohibited under Schedule IV of the  
18 Uniform Controlled Dangerous Substances Act, outraging public  
19 decency, resisting arrest, escaping or attempting to escape, eluding  
20 a police officer, Peeping Tom, pointing a firearm, ~~unlawful carry of~~  
21 ~~a firearm, illegal transport of a firearm, discharging of a firearm,~~  
22 threatening an act of violence, breaking and entering a dwelling  
23 place, destruction of property, negligent homicide or causing a  
24 personal injury accident while driving under the influence of any

1 intoxicating substance as described in this subsection. The court  
2 clerk shall remit the monies in said fund on a monthly basis  
3 directly to the Oklahoma State Bureau of Investigation who shall  
4 deposit the monies into the OSBI Revolving Fund provided for in  
5 Section 150.19a of Title 74 of the Oklahoma Statutes for services  
6 rendered or administered by the Oklahoma State Bureau of  
7 Investigation.

8 3. The monies from the DNA sample fee deposited into the OSBI  
9 Revolving Fund shall be used for creating, staffing, and maintaining  
10 the OSBI DNA Laboratory and OSBI Combined DNA Index System (CODIS)  
11 Database.

12 I. It shall be the responsibility of the court clerk to account  
13 for and ensure the correctness and accuracy of payments made to the  
14 state agencies identified in Sections 1313.2 through 1313.4 of this  
15 title. Payments made directly to an agency by the court clerk as a  
16 result of different types of assessments and fees pursuant to  
17 Sections 1313.2 through 1313.4 of this title shall be made monthly  
18 to each state agency.

19 SECTION 2. AMENDATORY 22 O.S. 2011, Section 991a, as  
20 last amended by Section 1, Chapter 157, O.S.L. 2014 (22 O.S. Supp.  
21 2016, Section 991a), is amended to read as follows:

22 Section 991a. A. Except as otherwise provided in the Elderly  
23 and Incapacitated Victim's Protection Program, when a defendant is  
24

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

- 1           b.    to attend a victims impact panel program, as defined  
2                in subsection H of this section, if such a program is  
3                offered in the county where the judgment is rendered,  
4                and to pay a fee of not less than Fifteen Dollars  
5                (\$15.00) nor more than Sixty Dollars (\$60.00) as set  
6                by the governing authority of the program and approved  
7                by the court, to the program to offset the cost of  
8                participation by the defendant, if in the opinion of  
9                the court the defendant has the ability to pay such  
10              fee,
- 11          c.    to both participate in the alcohol and drug substance  
12                abuse course or treatment program, pursuant to  
13                subparagraph a of this paragraph and attend a victims  
14                impact panel program, pursuant to subparagraph b of  
15                this paragraph,
- 16          d.    to install, at the expense of the person, an ignition  
17                interlock device approved by the Board of Tests for  
18                Alcohol and Drug Influence, upon every motor vehicle  
19                operated by such person and to require that a notation  
20                of this restriction be affixed to the person's driver  
21                license at the time of reinstatement of the license.  
22                The restriction shall remain on the driver license for  
23                such period as the court shall determine. The  
24                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;

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~~ Peeping  
8 Tom, pointing a firearm, ~~unlawful carry of a firearm, illegal~~  
9 ~~transport of a firearm, discharging of a firearm,~~ threatening an act  
10 of 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. Defendants who are sentenced to a term of  
23 incarceration shall submit to testing in accordance with Section  
24 530.1 of Title 57 of the Oklahoma Statutes, for those defendants who

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

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

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

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

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

22 SECTION 3. AMENDATORY 74 O.S. 2011, Section 150.27a, as  
23 amended by Section 3, Chapter 181, O.S.L. 2016 (74 O.S. Supp. 2016,  
24 Section 150.27a), is 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:

7       1. Convicted of any felony offense;

8       2. Required to register pursuant to the Sex Offenders  
9 Registration Act;

10       3. Subject to the availability of funds, eighteen (18) years of  
11 age or older arrested for the commission of a felony under the laws  
12 of this state or any other jurisdiction, upon being booked into a  
13 jail or detention facility. Provided, the DNA sample shall not be  
14 analyzed and shall be destroyed unless one of the following  
15 conditions has been met:

16           a. the arrest was made upon a valid felony arrest  
17 warrant,

18           b. the person has appeared before a judge or magistrate  
19 judge who made a finding that there was probable cause  
20 for the arrest, or

21           c. the person posted bond or was released prior to  
22 appearing before a judge or magistrate judge and then  
23 failed to appear for a scheduled hearing; and  
24

1        4. Subject to the availability of funds, convicted of a  
2 misdemeanor offense of assault and battery, domestic abuse,  
3 stalking, possession of a controlled substance prohibited under  
4 Schedule IV of the Uniform Controlled Dangerous Substances Act,  
5 outraging public decency, resisting arrest, escaping or attempting  
6 to escape, eluding a police officer, Peeping Tom, pointing a  
7 firearm, ~~unlawful carry of a firearm, illegal transport of a~~  
8 ~~firearm, discharging of a firearm,~~ threatening an act of violence,  
9 breaking and entering a dwelling place, destruction of property,  
10 negligent homicide, or causing a personal injury accident while  
11 driving under the influence of any intoxicating substance, or, upon  
12 arrest, any alien unlawfully present under federal immigration law.

13        The purpose of this database is the detection or exclusion of  
14 individuals who are subjects of the investigation or prosecution of  
15 sex-related crimes, violent crimes, or other crimes in which  
16 biological evidence is recovered, and such information shall be used  
17 for no other purpose.

18        B. Any DNA specimen taken in good faith by the Department of  
19 Corrections, its employees or contractors, the county sheriff, its  
20 employees or contractors or a peace officer, and submitted to the  
21 OSBI may be included, maintained, and kept by the OSBI in a database  
22 for criminal investigative purposes despite the specimen having not  
23 been taken in strict compliance with the provisions of this section  
24 or Section 991a of Title 22 of the Oklahoma Statutes.

1 C. Upon the request to OSBI by the federal or state authority  
2 having custody of the person, any individual who was convicted of  
3 violating laws of another state or the federal government, but is  
4 currently incarcerated or residing in Oklahoma, shall submit to DNA  
5 profiling for entry of the data into the OSBI DNA Offender Database.  
6 This provision shall only apply when such federal or state  
7 conviction carries a requirement of sex offender registration or DNA  
8 profiling. The person to be profiled shall pay a fee of One Hundred  
9 Fifty Dollars (\$150.00) to the OSBI.

10 D. The OSBI CODIS Database is specifically exempt from any  
11 statute requiring disclosure of information to the public. The  
12 information contained in the database is privileged from discovery  
13 and inadmissible as evidence in any civil court proceeding. The  
14 information in the database is confidential and shall not be  
15 released to the public. Any person charged with the custody and  
16 dissemination of information from the database shall not divulge or  
17 disclose any such information except to federal, state, county or  
18 municipal law enforcement or criminal justice agencies. Any person  
19 violating the provisions of this section upon conviction shall be  
20 deemed guilty of a misdemeanor punishable by imprisonment in the  
21 county jail for not more than one (1) year.

22 E. The OSBI shall promulgate rules concerning the collection,  
23 storing, expungement and dissemination of information and samples  
24 for the OSBI CODIS Database. The OSBI shall determine the type of

1 equipment, collection procedures, and reporting documentation to be  
2 used by the Department of Corrections, a county sheriff's office or  
3 a law enforcement agency in submitting DNA samples to the OSBI in  
4 accordance with Section 991a of Title 22 of the Oklahoma Statutes.  
5 The OSBI shall provide training to designated employees of the  
6 Department of Corrections, a county sheriff's office and a law  
7 enforcement agency in the proper methods of performing the duties  
8 required by this section.

9 F. The OSBI CODIS Database may include secondary databases and  
10 indexes including, but not limited to:

11 1. Forensic index database consisting of unknown evidence  
12 samples;

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

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

17 4. Missing persons and unidentified remains index or database  
18 consisting of DNA profiles from unidentified remains and relatives  
19 of missing persons.

20 G. 1. Any person convicted of a felony offense who is in  
21 custody shall provide a blood or saliva sample prior to release.

22 2. Subject to the availability of funds, any person convicted  
23 of a misdemeanor offense of assault and battery, domestic abuse,  
24 stalking, possession of a controlled substance prohibited under

1 Schedule IV of the Uniform Controlled Dangerous Substances Act,  
2 outraging public decency, resisting arrest, escaping or attempting  
3 to escape, eluding a police officer, Peeping Tom, pointing a  
4 firearm, ~~unlawful carry of a firearm, illegal transport of a~~  
5 ~~firearm, discharging of a firearm,~~ threatening an act of violence,  
6 breaking and entering a dwelling place, destruction of property,  
7 negligent homicide, or causing a personal injury incident while  
8 driving under the influence of any intoxicating substance who is in  
9 custody shall provide a blood or saliva sample prior to release.

10 3. Every person who is convicted of a felony offense whose  
11 sentence does not include a term of incarceration shall provide a  
12 blood or saliva sample as a condition of sentence.

13 4. Subject to the availability of funds, every person who is  
14 convicted of a misdemeanor offense of assault and battery, domestic  
15 abuse, stalking, possession of a controlled substance prohibited  
16 under Schedule IV of the Uniform Controlled Dangerous Substances  
17 Act, outraging public decency, resisting arrest, escape or  
18 attempting to escape, eluding a police officer, Peeping Tom,  
19 pointing a firearm, ~~unlawful carry of a firearm, illegal transport~~  
20 ~~of a firearm, discharging of a firearm,~~ threatening an act of  
21 violence, breaking and entering a dwelling place, destruction of  
22 property, negligent homicide, or causing a personal injury accident  
23 while driving under the influence of any intoxicating substance  
24

1 whose sentence does not include a term of incarceration shall  
2 provide a blood or saliva sample as a condition of sentence.

3 5. Subject to the availability of funds, any person eighteen  
4 (18) years of age or older who is arrested for the commission of a  
5 felony under the laws of this state or any other jurisdiction shall,  
6 upon being booked into a jail or detention facility, submit to DNA  
7 testing for law enforcement identification purposes. Provided, the  
8 DNA sample shall not be analyzed and shall be destroyed unless one  
9 of the following conditions has been met:

10 a. the arrest was made upon a valid felony arrest  
11 warrant,

12 b. the person has appeared before a judge or magistrate  
13 judge who made a finding that there was probable cause  
14 for the arrest, or

15 c. the person posted bond or was released prior to  
16 appearing before a judge or magistrate judge and then  
17 failed to appear for a scheduled hearing.

18 SECTION 4. This act shall become effective November 1, 2017.

19  
20 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 03/02/2017 -  
21 DO PASS.  
22  
23  
24