

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

HOUSE BILL 1609

By: Enns

AS INTRODUCED

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

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

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

Section 1313.2 A. As used in this section:

1. "Arrested" means taking custody of another for the purpose 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.

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