

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 HOUSE BILL 3279

By: Kannady

4  
5  
6 AS INTRODUCED

7 An Act relating to controlled dangerous substances;  
8 amending 63 O.S. 2011, Sections 2-401, as amended by  
9 Section 4, Chapter 206, O.S.L. 2012, 2-410, as  
10 amended by Section 2, Chapter 219, O.S.L. 2014 and 2-  
11 415, as last amended by Section 1, Chapter 258,  
12 O.S.L. 2015 (63 O.S. Supp. 2017, Sections 2-401, 2-  
13 410 and 2-415), which relate to the Uniform  
14 Controlled Dangerous Substances Act; modifying  
15 penalties for distributing, dispensing, cultivating  
16 and trafficking controlled dangerous substances;  
17 modifying purpose for which expunged records may be  
18 admissible in criminal prosecutions; and providing an  
19 effective date.

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

21 SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-401, as  
22 amended by Section 4, Chapter 206, O.S.L. 2012 (63 O.S. Supp. 2017,  
23 Section 2-401), is amended to read as follows:

24 Section 2-401. A. Except as authorized by the Uniform  
Controlled Dangerous Substances Act, it shall be unlawful for any  
person:

1. To distribute, dispense, transport with intent to distribute  
or dispense, possess with intent to manufacture, distribute, or

1 dispense, a controlled dangerous substance or to solicit the use of  
2 or use the services of a person less than eighteen (18) years of age  
3 to cultivate, distribute or dispense a controlled dangerous  
4 substance;

5 2. To create, distribute, transport with intent to distribute  
6 or dispense, or possess with intent to distribute, a counterfeit  
7 controlled dangerous substance; or

8 3. To distribute any imitation controlled substance as defined  
9 by Section 2-101 of this title, except when authorized by the Food  
10 and Drug Administration of the United States Department of Health  
11 and Human Services.

12 B. ~~Any~~ Except as provided in subsection C of this section, any  
13 person who violates the provisions of this section with respect to:

14 1. A substance classified in Schedule I or II which is a  
15 narcotic drug, lysergic acid diethylamide (LSD), gamma  
16 butyrolactone, gamma hydroxyvalerate, gamma valerolactone, 1,4  
17 butanediol, or gamma-hydroxybutyric acid as defined in Sections 2-  
18 204 and 2-208 of this title, upon conviction, shall be guilty of a  
19 felony and shall be sentenced to a term of imprisonment in the  
20 custody of the Department of Corrections for not less than five (5)  
21 years nor more than life and a fine of not more than One Hundred  
22 Thousand Dollars (\$100,000.00), which shall be in addition to other  
23 punishment provided by law and shall not be imposed in lieu of other  
24 punishment. Any sentence to the custody of the Department of

1 Corrections shall not be subject to statutory provisions for  
2 suspended sentences, deferred sentences, or probation except when  
3 the conviction is for a first offense;

4 2. Any other controlled dangerous substance classified in  
5 Schedule I, II, III, or IV, upon conviction, shall be guilty of a  
6 felony and shall be sentenced to a term of imprisonment in the  
7 custody of the Department of Corrections for not less than two (2)  
8 years nor more than life and a fine of not more than Twenty Thousand  
9 Dollars (\$20,000.00), which shall be in addition to other punishment  
10 provided by law and shall not be imposed in lieu of other  
11 punishment. Any sentence to the custody of the Department of  
12 Corrections shall not be subject to statutory provisions for  
13 suspended sentences, deferred sentences, or probation except when  
14 the conviction is for a first offense;

15 3. A substance classified in Schedule V, upon conviction, shall  
16 be guilty of a felony and shall be sentenced to a term of  
17 imprisonment in the custody of the Department of Corrections for not  
18 more than five (5) years and a fine of not more than One Thousand  
19 Dollars (\$1,000.00), which shall be in addition to other punishment  
20 provided by law and shall not be imposed in lieu of other  
21 punishment; or

22 4. An imitation controlled substance as defined by Section 2-  
23 101 of this title, upon conviction, shall be guilty of a misdemeanor  
24 and shall be sentenced to a term of imprisonment in the county jail

1 for a period of not more than one (1) year and a fine of not more  
2 than One Thousand Dollars (\$1,000.00). A person convicted of a  
3 second violation of the provisions of this paragraph shall be guilty  
4 of a felony and shall be sentenced to a term of imprisonment in the  
5 custody of the Department of Corrections for not more than five (5)  
6 years and a fine of not more than Five Thousand Dollars (\$5,000.00),  
7 which shall be in addition to other punishment provided by law and  
8 shall not be imposed in lieu of other punishment.

9 C. Any person who violates the provisions of subsection B of  
10 this section by unlawfully distributing, dispensing, transporting  
11 with intent to distribute or dispense, possessing with intent to  
12 distribute or dispense or soliciting the use of or using the  
13 services of a person less than eighteen (18) years of age to  
14 distribute or dispense shall, upon conviction, be guilty of a felony  
15 and shall be punished as follows:

16 1. Cocaine or cocaine base, an amount of not less than five (5)  
17 grams up to twenty-eight (28) grams, not more than five (5) years in  
18 the custody of the Department of Corrections and a fine of not more  
19 than Ten Thousand Dollars (\$10,000.00);

20 2. Marijuana, in an amount of not less than four (4) ounces up  
21 to twenty-five (25) pounds, not more than three (3) years in the  
22 custody of the Department of Corrections and a fine of not more than  
23 Five Thousand Dollars (\$5,000.00);

24

1       3. Heroin, morphine or codeine, an amount of not less than two  
2 (2) grams up to ten (10) grams, not more than five (5) years in the  
3 custody of the Department of Corrections and a fine of not more than  
4 Fifteen Thousand Dollars (\$15,000.00); and

5       4. Methamphetamine, an amount of not less than one-fourth (1/4)  
6 of a gram up to twenty (20) grams, not more than five (5) years in  
7 the custody of the Department of Corrections and a fine of not more  
8 than Ten Thousand Dollars (\$10,000.00).

9       D. Any person who violates the provisions of subsection B of  
10 this section by unlawfully manufacturing or cultivating, possessing  
11 with intent to manufacture or cultivate or soliciting the use of or  
12 using the services of a person less than eighteen (18) years of age  
13 to manufacture of cultivate shall, upon conviction, be guilty of a  
14 felony and shall be punished as follows:

15       1. Cocaine or cocaine base, an amount of not less than one-  
16 fourth (1/4) of a gram up to twenty-eight (28) grams, not more than  
17 eight (8) years in the custody of the Department of Corrections and  
18 a fine of not more than Ten Thousand Dollars (\$10,000.00);

19       2. Marijuana, an amount of not less than four (4) ounces up to  
20 twenty-five (25) pounds, not more than six (6) years in the custody  
21 of the Department of Corrections and a fine of not more than Ten  
22 Thousand Dollars (\$10,000.00);

23       3. Heroin, morphine or codeine, an amount of not less than one-  
24 fourth (1/4) of a gram up to ten (10) grams, not more than eight (8)

1 years in the custody of the Department of Corrections and a fine of  
2 not more than Fifteen Thousand Dollars (\$15,000.00); and

3 4. Methamphetamine, an amount of not less than one-fourth (1/4)  
4 of a gram up to twenty (20) grams, not more than eight (8) years in  
5 the custody of the Department of Corrections and a fine of not more  
6 than Fifteen Thousand Dollars (\$15,000.00).

7 E. Possession of a controlled dangerous substance in an amount  
8 less than the minimum amounts provided for in subsection C and D of  
9 this section shall not constitute a violation of any of the  
10 provisions of this section.

11 F. 1. Except when authorized by the Food and Drug  
12 Administration of the United States Department of Health and Human  
13 Services, it shall be unlawful for any person to manufacture,  
14 cultivate, distribute, or possess with intent to distribute a  
15 synthetic controlled substance.

16 2. Any person convicted of violating the provisions of this  
17 paragraph subsection is guilty of a felony and shall be punished by  
18 imprisonment in the custody of the Department of Corrections for a  
19 term not to exceed life and a fine of not more than Twenty-five  
20 Thousand Dollars (\$25,000.00), which shall be in addition to other  
21 punishment provided by law and shall not be imposed in lieu of other  
22 punishment.

23 3. A second or subsequent conviction for the violation of the  
24 provisions of this paragraph subsection is a felony punishable as a

1 habitual offender pursuant to Section 51.1 of Title 21 of the  
2 Oklahoma Statutes.

3 4. In addition, the violator shall be fined an amount not more  
4 than One Hundred Thousand Dollars (\$100,000.00), which shall be in  
5 addition to other punishment provided by law and shall not be  
6 imposed in lieu of other punishment.

7 ~~D.~~ G. 1. Any person convicted of a second or subsequent felony  
8 violation of the provisions of this section, except for paragraph 4  
9 of subsection B of this section, shall be punished as a habitual  
10 offender pursuant to Section 51.1 of Title 21 of the Oklahoma  
11 Statutes.

12 2. In addition, the violator shall be fined twice the fine  
13 otherwise authorized, which shall be in addition to other punishment  
14 provided by law and shall not be imposed in lieu of other  
15 punishment.

16 3. Convictions for second or subsequent violations of the  
17 provisions of this section shall not be subject to statutory  
18 provisions for suspended sentences, deferred sentences, or  
19 probation.

20 ~~E.~~ H. Any person who is at least eighteen (18) years of age and  
21 who violates the provisions of this section by using or soliciting  
22 the use of services of a person less than eighteen (18) years of age  
23 to distribute, dispense, transport with intent to distribute or  
24 dispense or cultivate a controlled dangerous substance or by

1 distributing a controlled dangerous substance to a person under  
2 eighteen (18) years of age, is punishable by twice the fine and by  
3 twice the imprisonment otherwise authorized.

4 ~~F.~~ I. Any person who violates any provision of this section by  
5 transporting with intent to distribute or dispense, distributing or  
6 possessing with intent to distribute a controlled dangerous  
7 substance to a person, or violation of subsection ~~G~~ J of this  
8 section, in or on, or within two thousand (2,000) feet of the real  
9 property comprising a public or private elementary or secondary  
10 school, public vocational school, public or private college or  
11 university, or other institution of higher education, recreation  
12 center or public park, including state parks and recreation areas,  
13 public housing project, or child care facility as defined by Section  
14 402 of Title 10 of the Oklahoma Statutes, shall be punished by:

15 1. For a first offense, a term of imprisonment in the custody  
16 of the Department of Corrections, or by the imposition of a fine or  
17 by both, not exceeding twice that authorized by the appropriate  
18 provision of this section ~~and shall serve a minimum of fifty percent~~  
19 ~~(50%) of the sentence received prior to becoming eligible for state~~  
20 ~~correctional institution earned credits toward the completion of the~~  
21 ~~sentence; or~~

22 2. For a second ~~or subsequent~~ offense, a term of imprisonment  
23 ~~as provided for a habitual offender pursuant to Section 51.1 of~~  
24 ~~Title 21 of the Oklahoma Statutes~~ in the custody of the Department

1 of Corrections twice that authorized by the appropriate provision of  
2 this section. In addition, the violator shall serve eighty-five  
3 percent (85%) of the sentence received prior to becoming eligible  
4 for state correctional institution earned credits toward the  
5 completion of the sentence or eligibility for parole. However, the  
6 violator may be released on electronic monitoring after serving  
7 seventy percent (70%) of the sentence. The violator shall not be  
8 eligible for a suspended sentence; or

9 3. For a third or subsequent offense, a term of imprisonment in  
10 the custody of the Department of Corrections three times that  
11 authorized by the appropriate provision of this section. In  
12 addition, the violator shall serve eighty-five percent (85%) of the  
13 sentence received prior to becoming eligible for state correctional  
14 institution earned credits toward the completion of the sentence or  
15 eligibility for parole. However, the violator may be released on  
16 electronic monitoring after serving seventy percent (70%) of the  
17 sentence. The violator shall not be eligible for a suspended  
18 sentence.

19 G. J. 1. Except as authorized by the Uniform Controlled  
20 Dangerous Substances Act, it shall be unlawful for any person to  
21 manufacture or attempt to manufacture any controlled dangerous  
22 substance or possess any substance listed in Section 2-322 of this  
23 title or any substance containing any detectable amount of  
24 pseudoephedrine or its salts, optical isomers or salts of optical

1 isomers, iodine or its salts, optical isomers or salts of optical  
2 isomers, hydriodic acid, sodium metal, lithium metal, anhydrous  
3 ammonia, phosphorus, or organic solvents with the intent to use that  
4 substance to manufacture a controlled dangerous substance.

5       2. Any person violating the provisions of this subsection with  
6 respect to the unlawful manufacturing or attempting to unlawfully  
7 manufacture any controlled dangerous substance, or possessing any  
8 substance listed in this subsection or Section 2-322 of this title,  
9 upon conviction, is guilty of a felony and shall be punished by  
10 imprisonment in the custody of the Department of Corrections for not  
11 less than seven (7) years nor more than life and by a fine of not  
12 less than Fifty Thousand Dollars (\$50,000.00), which shall be in  
13 addition to other punishment provided by law and shall not be  
14 imposed in lieu of other punishment. The possession of any amount  
15 of anhydrous ammonia in an unauthorized container shall be prima  
16 facie evidence of intent to use such substance to manufacture a  
17 controlled dangerous substance.

18       3. Any person violating the provisions of this subsection with  
19 respect to the unlawful manufacturing or attempting to unlawfully  
20 manufacture any controlled dangerous substance in the following  
21 amounts:

22           a. one (1) kilogram or more of a mixture or substance  
23               containing a detectable amount of heroin,  
24

1           b.    five (5) kilograms or more of a mixture or substance  
2                    containing a detectable amount of:

3                    (1)    coca leaves, except coca leaves and extracts of  
4                            coca leaves from which cocaine, ecgonine, and  
5                            derivatives of ecgonine or their salts have been  
6                            removed,

7                    (2)    cocaine, its salts, optical and geometric  
8                            isomers, and salts of isomers,

9                    (3)    ecgonine, its derivatives, their salts, isomers,  
10                           and salts of isomers, or

11                   (4)    any compound, mixture, or preparation which  
12                           contains any quantity of any of the substances  
13                           referred to in divisions (1) through (3) of this  
14                           subparagraph,

15           c.    fifty (50) grams or more of a mixture or substance  
16                    described in division (2) of subparagraph b of this  
17                    paragraph which contains cocaine base,

18           d.    one hundred (100) grams or more of phencyclidine (PCP)  
19                    or 1 kilogram or more of a mixture or substance  
20                    containing a detectable amount of phencyclidine (PCP),

21           e.    ten (10) grams or more of a mixture or substance  
22                    containing a detectable amount of lysergic acid  
23                    diethylamide (LSD),  
24

1 f. four hundred (400) grams or more of a mixture or  
2 substance containing a detectable amount of N-phenyl-  
3 N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 100  
4 grams or more of a mixture or substance containing a  
5 detectable amount of any analogue of N-phenyl-N-[1-(2-  
6 phenylethyl)-4-piperidinyl] propanamide,

7 g. one thousand (1,000) kilograms or more of a mixture or  
8 substance containing a detectable amount of ~~marihuana~~  
9 marijuana or one thousand (~~1000~~ 1,000) or more  
10 ~~marihuana~~ marijuana plants regardless of weight, or

11 h. fifty (50) grams or more of methamphetamine, its  
12 salts, isomers, and salts of its isomers or 500 grams  
13 or more of a mixture or substance containing a  
14 detectable amount of methamphetamine, its salts,  
15 isomers, or salts of its isomers,

16 upon conviction, is guilty of aggravated manufacturing a controlled  
17 dangerous substance punishable by imprisonment in the custody of the  
18 Department of Corrections for not less than twenty (20) years nor  
19 more than life and by a fine of not less than Fifty Thousand Dollars  
20 (\$50,000.00), which shall be in addition to other punishment  
21 provided by law and shall not be imposed in lieu of other  
22 punishment. Any person convicted of a violation of the provisions  
23 of this paragraph shall be required to serve a minimum of eighty-  
24 five percent (85%) of the sentence received prior to becoming

1 eligible for state correctional earned credits towards the  
2 completion of the sentence or eligible for parole.

3 4. Any sentence to the custody of the Department of Corrections  
4 for any violation of paragraph 3 of this subsection shall not be  
5 subject to statutory provisions for suspended sentences, deferred  
6 sentences, or probation. A person convicted of a second or  
7 subsequent violation of the provisions of paragraph 3 of this  
8 subsection shall be punished as a habitual offender pursuant to  
9 Section 51.1 of Title 21 of the Oklahoma Statutes and shall be  
10 required to serve a minimum of eighty-five percent (85%) of the  
11 sentence received prior to becoming eligible for state correctional  
12 earned credits or eligibility for parole.

13 5. Any person who has been convicted of manufacturing or  
14 attempting to manufacture methamphetamine pursuant to the provisions  
15 of this subsection and who, after such conviction, purchases or  
16 attempts to purchase, receive or otherwise acquire any product,  
17 mixture, or preparation containing any detectable quantity of base  
18 pseudoephedrine or ephedrine shall, upon conviction, be guilty of a  
19 felony punishable by imprisonment in the custody of the Department  
20 of Corrections for a term in the range of twice the minimum term  
21 provided for in paragraph 2 of this subsection.

22 H. K. Any person convicted of any offense described in the  
23 Uniform Controlled Dangerous Substances Act may, in addition to the  
24 fine imposed, be assessed an amount not to exceed ten percent (10%)

1 of the fine imposed. Such assessment shall be paid into a revolving  
2 fund for enforcement of controlled dangerous substances created  
3 pursuant to Section 2-506 of this title.

4 ~~I.~~ L. Any person convicted of any offense described in this  
5 section shall, in addition to any fine imposed, pay a special  
6 assessment trauma-care fee of One Hundred Dollars (\$100.00) to be  
7 deposited into the Trauma Care Assistance Revolving Fund created in  
8 Section ~~1-2522~~ 1-2530.9 of this title.

9 ~~J.~~ M. For purposes of this section, "public housing project"  
10 means any dwelling or accommodations operated as a state or  
11 federally subsidized multifamily housing project by any housing  
12 authority, nonprofit corporation or municipal developer or housing  
13 projects created pursuant to the Oklahoma Housing Authorities Act.

14 ~~K.~~ N. When a person is found guilty of a violation of the  
15 provisions of this section, the court shall order, in addition to  
16 any other penalty, the defendant to pay a one-hundred-dollar  
17 assessment to be deposited in the Drug Abuse Education and Treatment  
18 Revolving Fund created in Section 2-503.2 of this title, upon  
19 collection.

20 SECTION 2. AMENDATORY 63 O.S. 2011, Section 2-410, as  
21 amended by Section 2, Chapter 219, O.S.L. 2014 (63 O.S. Supp. 2017,  
22 Section 2-410), is amended to read as follows:

23 Section 2-410. A. Whenever any person who has not previously  
24 been convicted of any offense under this act or under any statute of

1 the United States or of any state relating to narcotic drugs,  
2 marijuana, or stimulant, depressant, or hallucinogenic drugs, pleads  
3 guilty or nolo contendere to or is found guilty of a violation of  
4 the Uniform Controlled Dangerous Substances Act, the court may,  
5 unless otherwise prohibited by law, without entering a judgment of  
6 guilt and with the consent of such person, defer further proceedings  
7 and place the person on probation upon such reasonable terms and  
8 conditions as it may require including the requirement that such  
9 person cooperate in a treatment and rehabilitation program of a  
10 state-supported or state-approved facility, if available. Upon  
11 violation of a term or condition, the court may enter an  
12 adjudication of guilt and proceed as otherwise provided. Upon  
13 fulfillment of the terms and conditions, the court shall discharge  
14 such person and dismiss the proceedings against the person.  
15 Discharge and dismissal under this section shall be without court  
16 adjudication of guilt and shall not be deemed a conviction for  
17 purposes of this section or for purposes of disqualifications or  
18 disabilities imposed by law upon conviction of a crime. Discharge  
19 and dismissal under this section may occur only once with respect to  
20 any person.

21 B. Any expunged arrest or conviction shall not thereafter be  
22 regarded as an arrest or conviction for purposes of employment,  
23 civil rights, or any statute, regulation, license, questionnaire or  
24 any other public or private purpose; provided, that, any plea of

1 guilty or nolo contendere or finding of guilt to a violation of the  
2 Uniform Controlled Dangerous Substances Act shall constitute a  
3 conviction of the offense for the purpose of the Uniform Controlled  
4 Dangerous Substances Act or any other criminal statute under which  
5 the existence of a prior conviction is relevant for a period of ten  
6 (10) years following the completion of any court imposed  
7 probationary term; provided, the person has not, in the meantime,  
8 been convicted of a misdemeanor involving moral turpitude or a  
9 felony. Records expunged pursuant to this section shall be sealed  
10 to the public but not to law enforcement agencies for law  
11 enforcement purposes. Records expunged pursuant to this section  
12 shall be admissible in any subsequent criminal prosecution ~~to prove~~  
13 ~~the existence of a prior conviction or prior deferred judgment for~~  
14 purposes of providing knowledge, intent or course of conduct without  
15 the necessity of a court order requesting the unsealing of such  
16 records.

17 C. The provisions of this section shall not apply to any person  
18 who pleads guilty or nolo contendere to or is found guilty of a  
19 violation of the Trafficking in Illegal Drugs Act or the Drug Money  
20 Laundering and Wire Transmitter Act.

21 SECTION 3. AMENDATORY 63 O.S. 2011, Section 2-415, as  
22 last amended by Section 1, Chapter 258, O.S.L. 2015 (63 O.S. Supp.  
23 2017, Section 2-415), is amended to read as follows:  
24

1 Section 2-415. A. The provisions of the Trafficking in Illegal  
2 Drugs Act shall apply to persons convicted of violations with  
3 respect to the following substances:

- 4 1. ~~Marihuana~~ Marijuana;
- 5 2. Cocaine or coca leaves;
- 6 3. Heroin;
- 7 4. Amphetamine or methamphetamine;
- 8 5. Lysergic acid diethylamide (LSD);
- 9 6. Phencyclidine (PCP);
- 10 7. Cocaine base, commonly known as "crack" or "rock";
- 11 8. 3,4-Methylenedioxy methamphetamine, commonly known as  
12 "ecstasy" or MDMA;
- 13 9. Morphine;
- 14 10. Oxycodone;
- 15 11. Hydrocodone; or
- 16 12. Benzodiazepine.

17 B. Except as otherwise authorized by the Uniform Controlled  
18 Dangerous Substances Act, it shall be unlawful for any person to:

- 19 1. Knowingly distribute, manufacture, bring into this state or  
20 possess a controlled substance specified in subsection A of this  
21 section in the quantities specified in subsection C of this section;
- 22 2. Possess any controlled substance with the intent to  
23 manufacture a controlled substance specified in subsection A of this  
24 section in quantities specified in subsection C of this section; or

1           3. Use or solicit the use of services of a person less than  
2 eighteen (18) years of age to distribute or manufacture a controlled  
3 dangerous substance specified in subsection A of this section in  
4 quantities specified in subsection C of this section.

5           Violation of this section shall be known as "trafficking in  
6 illegal drugs". Separate types of controlled substances described  
7 in subsection A of this section when possessed at the same time in  
8 violation of any provision of this section shall constitute a  
9 separate offense for each substance.

10           Any person who commits the conduct described in paragraph 1, 2  
11 or 3 of this subsection and represents the quantity of the  
12 controlled substance to be an amount described in subsection C of  
13 this section shall, upon conviction, be punished under the  
14 provisions appropriate for the amount of controlled substance  
15 represented, regardless of the actual amount.

16           C. In the case of a violation of the provisions of subsection B  
17 of this section, involving:

18           1. ~~Marihuana~~ Marijuana:

19           a. twenty-five (25) pounds or more of a mixture or  
20 substance containing a detectable amount of ~~marihuana~~  
21 marijuana shall be punishable by a fine of not less  
22 than Twenty-five Thousand Dollars (\$25,000.00) and not  
23 more than One Hundred Thousand Dollars (\$100,000.00),  
24 or

1           b.    one thousand (1,000) pounds or more of a mixture or  
2                    substance containing a detectable amount of ~~marihuana~~  
3                    marijuana shall be deemed aggravated trafficking  
4                    punishable by a fine of not less than One Hundred  
5                    Thousand Dollars (\$100,000.00) and not more than Five  
6                    Hundred Thousand Dollars (\$500,000.00);

7    2.   Cocaine or coca leaves:

8           a.    twenty-eight (28) grams or more of a mixture or  
9                    substance containing a detectable amount of cocaine or  
10                    coca leaves shall be punishable by a fine of not less  
11                    than Twenty-five Thousand Dollars (\$25,000.00) and not  
12                    more than One Hundred Thousand Dollars (\$100,000.00),

13           b.    three hundred (300) grams or more of a mixture or  
14                    substance containing a detectable amount of cocaine or  
15                    coca leaves shall be punishable by a fine of not less  
16                    than One Hundred Thousand Dollars (\$100,000.00) and  
17                    not more than Five Hundred Thousand Dollars  
18                    (\$500,000.00), or

19           c.    four hundred fifty (450) grams or more of a mixture or  
20                    substance containing a detectable amount of cocaine or  
21                    coca leaves shall be deemed aggravated trafficking  
22                    punishable by a fine of not less than One Hundred  
23                    Thousand Dollars (\$100,000.00) and not more than Five  
24                    Hundred Thousand Dollars (\$500,000.00);

1        3. Heroin:

2            a.    ten (10) grams or more of a mixture or substance  
3                    containing a detectable amount of heroin shall be  
4                    punishable by a fine of not less than Twenty-five  
5                    Thousand Dollars (\$25,000.00) and not more than Fifty  
6                    Thousand Dollars (\$50,000.00), or

7            b.    twenty-eight (28) grams or more of a mixture or  
8                    substance containing a detectable amount of heroin  
9                    shall be punishable by a fine of not less than Fifty  
10                    Thousand Dollars (\$50,000.00) and not more than Five  
11                    Hundred Thousand Dollars (\$500,000.00);

12        4. Amphetamine or methamphetamine:

13            a.    twenty (20) grams or more of a mixture or substance  
14                    containing a detectable amount of amphetamine or  
15                    methamphetamine shall be punishable by a fine of not  
16                    less than Twenty-five Thousand Dollars (\$25,000.00)  
17                    and not more than Two Hundred Thousand Dollars  
18                    (\$200,000.00),

19            b.    two hundred (200) grams or more of a mixture or  
20                    substance containing a detectable amount of  
21                    amphetamine or methamphetamine shall be punishable by  
22                    a fine of not less than Fifty Thousand Dollars  
23                    (\$50,000.00) and not more than Five Hundred Thousand  
24                    Dollars (\$500,000.00), or

1 c. four hundred fifty (450) grams or more of a mixture or  
2 substance containing a detectable amount of  
3 amphetamine or methamphetamine shall be deemed  
4 aggravated trafficking punishable by a fine of not  
5 less than Fifty Thousand Dollars (\$50,000.00) and not  
6 more than Five Hundred Thousand Dollars (\$500,000.00);

7 5. Lysergic acid diethylamide (LSD):

8 a. one (1) gram or more of a mixture or substance  
9 containing a detectable amount of lysergic acid  
10 diethylamide (LSD) shall be punishable by a fine of  
11 not less than Fifty Thousand Dollars (\$50,000.00) and  
12 not more than One Hundred Thousand Dollars  
13 (\$100,000.00), or

14 b. ten (10) grams or more of a mixture or substance  
15 containing a detectable amount of lysergic acid  
16 diethylamide (LSD) shall be punishable by a fine of  
17 not less than One Hundred Thousand Dollars  
18 (\$100,000.00) and not more than Two Hundred Fifty  
19 Thousand Dollars (\$250,000.00);

20 6. Phencyclidine (PCP):

21 a. twenty (20) grams or more of a substance containing a  
22 mixture or substance containing a detectable amount of  
23 phencyclidine (PCP) shall be punishable by a fine of  
24

1 not less than Twenty Thousand Dollars (\$20,000.00) and  
2 not more than Fifty Thousand Dollars (\$50,000.00), or  
3 b. one hundred fifty (150) grams or more of a substance  
4 containing a mixture or substance containing a  
5 detectable amount of phencyclidine (PCP) shall be  
6 punishable by a fine of not less than Fifty Thousand  
7 Dollars (\$50,000.00) and not more than Two Hundred  
8 Fifty Thousand Dollars (\$250,000.00);

9 7. Cocaine base:

- 10 a. five (5) grams or more of a mixture or substance  
11 described in paragraph 2 of this subsection which  
12 contains cocaine base shall be punishable by a fine of  
13 not less than Twenty-five Thousand Dollars  
14 (\$25,000.00) and not more than One Hundred Thousand  
15 Dollars (\$100,000.00), or  
16 b. fifty (50) grams or more of a mixture or substance  
17 described in paragraph 2 of this subsection which  
18 contains cocaine base shall be punishable by a fine of  
19 not less than One Hundred Thousand Dollars  
20 (\$100,000.00) and not more than Five Hundred Thousand  
21 Dollars (\$500,000.00);

22 8. Methylenedioxy methamphetamine:

- 23 a. thirty (30) tablets or ten (10) grams of a mixture or  
24 substance containing a detectable amount of 3,4-

1           Methylenedioxy methamphetamine shall be punishable by  
2           a fine of not less than Twenty-five Thousand Dollars  
3           (\$25,000.00) and not more than One Hundred Thousand  
4           Dollars (\$100,000.00), or

5           b.   one hundred (100) tablets or thirty (30) grams of a  
6           mixture or substance containing a detectable amount of  
7           3,4-Methylenedioxy methamphetamine shall be punishable  
8           by a fine of not less than One Hundred Thousand  
9           Dollars (\$100,000.00) and not more than Five Hundred  
10          Thousand Dollars (\$500,000.00);

11          9.   Morphine: One thousand (1,000) grams or more of a mixture  
12          containing a detectable amount of morphine shall be punishable by a  
13          fine of not less than One Hundred Thousand Dollars (\$100,000.00) and  
14          not more than Five Hundred Thousand Dollars (\$500,000.00);

15          10.   Oxycodone: Four hundred (400) grams or more of a mixture  
16          containing a detectable amount of oxycodone shall be punishable by a  
17          fine of not less than One Hundred Thousand Dollars (\$100,000.00) and  
18          not more than Five Hundred Thousand Dollars (\$500,000.00);

19          11.   Hydrocodone: Three thousand seven hundred and fifty  
20          (3,750) grams or more of a mixture containing a detectable amount of  
21          hydrocodone shall be punishable by a fine of not less than One  
22          Hundred Thousand Dollars (\$100,000.00) and not more than Five  
23          Hundred Thousand Dollars (\$500,000.00); and

1 12. Benzodiazepine: Five hundred (500) grams or more of a  
2 mixture containing a detectable amount of benzodiazepine shall be  
3 punishable by a fine of not less than One Hundred Thousand Dollars  
4 (\$100,000.00) and not more than Five Hundred Thousand Dollars  
5 (\$500,000.00).

6 D. Any person who violates the provisions of this section with  
7 respect to a controlled substance specified in subsection A of this  
8 section in a quantity specified in subsection C of this section,  
9 upon conviction, shall, in addition to any fines specified by this  
10 section, be punishable by a term of imprisonment in the custody of  
11 the Department of Corrections as follows:

12 1. ~~Not less than twice the term of imprisonment provided for in~~  
13 ~~Section 2-401 of this title~~ Cocaine or cocaine base:

14 a. an amount of not more than twenty-eight (28) grams nor  
15 more than three hundred (300) grams, not more than ten  
16 (10) years,

17 b. an amount of not more than three hundred (300) grams  
18 nor more than four hundred fifty (450) grams, not less  
19 than two (2) years nor more than fifteen (15) years,  
20 or

21 c. an amount of four hundred fifty (450) grams or more,  
22 not less than five (5) years nor more than twenty-five  
23 (25) years,

24 2. Marijuana:

1        a. an amount of not more than twenty-five (25) pounds nor  
2        more than one hundred (100) pounds, not more than ten  
3        (10) years,

4        b. an amount of more than one hundred (100) pounds nor  
5        more than five hundred (500) pounds, not less than two  
6        (2) years nor more than fifteen (15) years, or

7        c. an amount of five hundred (500) pounds or more, not  
8        less than five (5) years nor more than twenty-five  
9        (25) years,

10       3. Heroin, morphine or codeine:

11       a. an amount of not more than ten (10) grams nor more  
12       than twenty-eight (28) grams, not more than ten (10)  
13       years,

14       b. an amount of not more than twenty-eight (28) grams nor  
15       more than two hundred fifty (250) grams, not less than  
16       two (2) years nor more than fifteen (15) years, or

17       c. an amount of two hundred fifty (250) grams or more,  
18       not less five (5) years nor more than fifteen (15)  
19       years,

20       4. Methamphetamine:

21       a. an amount of not more than twenty (20) grams nor more  
22       than two hundred (200) grams, not more than ten (10)  
23       years,

- 1            b.    an amount of not more than two hundred (200) grams nor  
2                    more than four hundred fifty (450) grams, not less  
3                    than two (2) years nor more than fifteen (15) years,  
4                    or  
5            c.    an amount of four hundred fifty (450) grams or more,  
6                    not less than five (5) years nor more than twenty-five  
7                    (25) years;

8            ~~2.~~ 5. If the person has previously been convicted of one  
9 violation of this section or has been previously convicted of a  
10 felony violation of the Uniform Controlled Dangerous Substances Act  
11 arising from separate and distinct transactions, not less than three  
12 times the term of imprisonment provided for in Section 2-401 of this  
13 title;

14            ~~3.~~ 6. If the person has previously been convicted of two or  
15 more violations of this section or any provision of the Uniform  
16 Controlled Dangerous Substances Act which constitutes a felony, or a  
17 combination of such violations arising out of separate and distinct  
18 transactions, not less than twenty (20) years to life imprisonment  
19 or life without parole; provided, if the person has been previously  
20 convicted of two or more drug trafficking violations, the punishment  
21 shall be life without parole; and

22            ~~4.~~ 7. If the person is convicted of aggravated trafficking as  
23 provided in subparagraph b of paragraph 1 of subsection C of this  
24 section, subparagraph c of paragraph 2 of subsection C of this

1 section or subparagraph c of paragraph 4 of subsection C of this  
2 section, a mandatory minimum sentence of imprisonment in the custody  
3 of the Department of Corrections for a term of fifteen (15) years of  
4 which the person shall serve eighty-five percent (85%) of such  
5 mandatory sentence before being eligible for parole consideration or  
6 any earned credits.

7       The terms of imprisonment specified in this subsection shall not  
8 be subject to statutory provisions for suspension, deferral or  
9 probation, or state correctional institution earned credits accruing  
10 from and after November 1, 1989, except for the achievement earned  
11 credits authorized by subsection H of Section 138 of Title 57 of the  
12 Oklahoma Statutes. To qualify for such achievement credits, such  
13 inmates must also be in compliance with the standards for Class  
14 level 2 behavior, as defined in subsection D of Section 138 of Title  
15 57 of the Oklahoma Statutes.

16       Persons convicted of violations of this section shall not be  
17 eligible for appeal bonds.

18       E. Any person convicted of any offense described in this  
19 section shall, in addition to any fine imposed, pay a special  
20 assessment trauma-care fee of One Hundred Dollars (\$100.00) to be  
21 deposited into the Trauma Care Assistance Revolving Fund created in  
22 Section 1-2530.9 of this title and the assessment pursuant to  
23 Section 2-503.2 of this title.

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SECTION 4. This act shall become effective November 1, 2018.

56-2-8361            GRS            01/16/18