

SENATE FLOOR VERSION

February 25, 2020

SENATE BILL NO. 1318

By: Haste of the Senate

and

Vancuren of the House

An Act relating to victims impact panel programs; amending 22 O.S. 2011, Section 991a, as last amended by Section 10, Chapter 304, O.S.L. 2018 (22 O.S. Supp. 2019, Section 991a), which relates to sentencing powers of court; removing authority of Department of Mental Health and Substance Abuse Services Commissioner to grant certain exemption; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2011, Section 991a, as last amended by Section 10, Chapter 304, O.S.L. 2018 (22 O.S. Supp. 2019, Section 991a), is amended to read as follows:

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

1. Suspend the execution of sentence in whole or in part, with or without probation. The court, in addition, may order the

1 convicted defendant at the time of sentencing or at any time during
2 the suspended sentence to do one or more of the following:

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

- 1 d. to pay a reasonable sum into any trust fund,
2 established pursuant to the provisions of Sections 176
3 through 180.4 of Title 60 of the Oklahoma Statutes,
4 and which provides restitution payments by convicted
5 defendants to victims of crimes committed within this
6 state wherein such victim has incurred a financial
7 loss,
- 8 e. to confinement in the county jail for a period not to
9 exceed six (6) months,
- 10 f. to confinement as provided by law together with a term
11 of post-imprisonment community supervision for not
12 less than three (3) years of the total term allowed by
13 law for imprisonment, with or without restitution;
14 provided, however, the authority of this provision is
15 limited to Section 843.5 of Title 21 of the Oklahoma
16 Statutes when the offense involved sexual abuse or
17 sexual exploitation; Sections 681, 741 and 843.1 of
18 Title 21 of the Oklahoma Statutes when the offense
19 involved sexual abuse or sexual exploitation; and
20 Sections 865 et seq., 885, 886, 888, 891, 1021,
21 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and
22 1123 of Title 21 of the Oklahoma Statutes,
- 23 g. to repay the reward or part of the reward paid by a
24 local certified crime stoppers program and the

Oklahoma Reward System. In determining whether the defendant shall repay the reward or part of the reward, the court shall consider the ability of the defendant to make the payment, the financial hardship on the defendant to make the required payment, and the importance of the information to the prosecution of the defendant as provided by the arresting officer or the district attorney with due regard for the confidentiality of the records of the local certified crime stoppers program and the Oklahoma Reward System. The court shall assess this repayment against the defendant as a cost of prosecution. The term "certified" means crime stoppers organizations that annually meet the certification standards for crime stoppers programs established by the Oklahoma Crime Stoppers Association to the extent those standards do not conflict with state statutes. The term "court" refers to all municipal and district courts within this state. The "Oklahoma Reward System" means the reward program established by Section 150.18 of Title 74 of the Oklahoma Statutes,

h. to reimburse the Oklahoma State Bureau of Investigation for costs incurred by that agency during its investigation of the crime for which the defendant

1 pleaded guilty, nolo contendere or was convicted,
2 including compensation for laboratory, technical, or
3 investigation services performed by the Bureau if, in
4 the opinion of the court, the defendant is able to pay
5 without imposing manifest hardship on the defendant,
6 and if the costs incurred by the Bureau during the
7 investigation of the defendant's case may be
8 determined with reasonable certainty,

- 9 i. to reimburse the Oklahoma State Bureau of
10 Investigation and any authorized law enforcement
11 agency for all costs incurred by that agency for
12 cleaning up an illegal drug laboratory site for which
13 the defendant pleaded guilty, nolo contendere or was
14 convicted. The court clerk shall collect the amount
15 and may retain five percent (5%) of such monies to be
16 deposited in the Court Clerk Revolving Fund to cover
17 administrative costs and shall remit the remainder to
18 the Oklahoma State Bureau of Investigation to be
19 deposited in the OSBI Revolving Fund established by
20 Section 150.19a of Title 74 of the Oklahoma Statutes
21 or to the general fund wherein the other law
22 enforcement agency is located,
- 23 j. to pay a reasonable sum to the Crime Victims
24 Compensation Board, created by Section 142.2 et seq.

1 of Title 21 of the Oklahoma Statutes, for the benefit
2 of crime victims,

3 k. to reimburse the court fund for amounts paid to court-
4 appointed attorneys for representing the defendant in
5 the case in which the person is being sentenced,

6 l. to participate in an assessment and evaluation by an
7 assessment agency or assessment personnel certified by
8 the Department of Mental Health and Substance Abuse
9 Services pursuant to Section 3-460 of Title 43A of the
10 Oklahoma Statutes and, as determined by the
11 assessment, participate in an alcohol and drug
12 substance abuse course or treatment program or both,
13 pursuant to Sections 3-452 and 3-453 of Title 43A of
14 the Oklahoma Statutes, or as ordered by the court,

15 m. to be placed in a victims impact panel program, as
16 defined in subsection H of this section, or
17 victim/offender reconciliation program and payment of
18 a fee to the program of not less than Fifteen Dollars
19 (\$15.00) nor more than Sixty Dollars (\$60.00) as set
20 by the governing authority of the program to offset
21 the cost of participation by the defendant. Provided,
22 each victim/offender reconciliation program shall be
23 required to obtain a written consent form voluntarily
24 signed by the victim and defendant that specifies the

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

1 restriction shall be a violation of the sentence and
2 may be punished as deemed proper by the sentencing
3 court. As used in this paragraph, "ignition interlock
4 device" means a device that, without tampering or
5 intervention by another person, would prevent the
6 defendant from operating a motor vehicle if the
7 defendant has a blood or breath alcohol concentration
8 of two-hundredths (0.02) or greater,

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

1 ordered location at the required times and which
2 records violations for investigation by a qualified
3 supervisory agency or person,

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

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

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

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

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

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

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

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

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

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

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

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

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

24 Additionally, the court may require the offender to

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

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

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

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

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

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

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

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

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

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

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

21 b. to attend a victims impact panel program, as defined
22 in subsection H of this section, and to pay a fee of
23 not more than Sixty Dollars (\$60.00) as set by the
24 governing authority of the program and approved by the

1 court, to the program to offset the cost of
2 participation by the defendant, if in the opinion of
3 the court the defendant has the ability to pay such
4 fee,

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

10 d. to install, at the expense of the person, an ignition
11 interlock device approved by the Board of Tests for
12 Alcohol and Drug Influence, upon every motor vehicle
13 operated by such person and to require that a notation
14 of this restriction be affixed to the person's driver
15 license at the time of reinstatement of the license.
16 The restriction shall remain on the driver license for
17 such period as the court shall determine. The
18 restriction may be modified or removed by order of the
19 court and notice of the order shall be given to the
20 Department of Public Safety. Upon the expiration of
21 the period for the restriction, the Department of
22 Public Safety shall remove the restriction without
23 further court order. Failure to comply with the order
24 to install an ignition interlock device or operating

1 any vehicle without such device during the period of
2 restriction shall be a violation of the sentence and
3 may be punished as deemed proper by the sentencing
4 court, or

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

17 8. In addition to the other sentencing powers of the court, in
18 the case of a person convicted of prostitution pursuant to Section
19 1029 of Title 21 of the Oklahoma Statutes, require such person to
20 receive counseling for the behavior which may have caused such
21 person to engage in prostitution activities. Such person may be
22 required to receive counseling in areas including but not limited to
23 alcohol and substance abuse, sexual behavior problems, or domestic
24 abuse or child abuse problems;

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

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

21 11. In addition to the other sentencing powers of the court,
22 the court, in the case of a person convicted of child abuse or
23 neglect, as defined in Section 1-1-105 of Title 10A of the Oklahoma
24 Statutes, may require the person to undergo treatment or to

1 participate in counseling services. The defendant may be required
2 to pay all or part of the cost of the treatment or counseling
3 services;

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

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

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

1 15. 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 shall
4 require the person to register any electronic mail address
5 information, instant message, chat or other Internet communication
6 name or identity information that the person uses or intends to use
7 while accessing the Internet or used for other purposes of social
8 networking or other similar Internet communication.

9 B. Notwithstanding any other provision of law, any person who
10 is found guilty of a violation of any provision of Section 761 or
11 11-902 of Title 47 of the Oklahoma Statutes or any person pleading
12 guilty or nolo contendere for a violation of any provision of such
13 sections shall be ordered to participate in, prior to sentencing, an
14 alcohol and drug assessment and evaluation by an assessment agency
15 or assessment personnel certified by the Department of Mental Health
16 and Substance Abuse Services for the purpose of evaluating the
17 receptivity to treatment and prognosis of the person. The court
18 shall order the person to reimburse the agency or assessor for the
19 evaluation. The fee shall be the amount provided in subsection C of
20 Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation
21 shall be conducted at a certified assessment agency, the office of a
22 certified assessor or at another location as ordered by the court.
23 The agency or assessor shall, within seventy-two (72) hours from the
24 time the person is assessed, submit a written report to the court

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

23 C. When sentencing a person convicted of a crime, the court
24 shall first consider a program of restitution for the victim, as

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

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

22 E. Probation, for purposes of subsection A of this section, is
23 a procedure by which a defendant found guilty of a crime, whether
24 upon a verdict or plea of guilty or upon a plea of nolo contendere,

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

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

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

5 2. Any offender eligible to participate in the Program pursuant
6 to this section shall be eligible to participate in a county
7 Program; provided, participation in county-funded Programs shall not
8 be limited to offenders who would otherwise be sentenced to
9 confinement with the Department of Corrections.

10 3. The Department shall establish criteria and specifications
11 for contracts with counties for such Programs. A county may apply
12 to the Department for a contract for a county-funded Program for a
13 specific period of time. The Department shall be responsible for
14 ensuring that any contracting county complies in full with
15 specifications and requirements of the contract. The contract shall
16 set appropriate compensation to the county for services to the
17 Department.

18 4. The Department is hereby authorized to provide technical
19 assistance to any county in establishing a Program, regardless of
20 whether the county enters into a contract pursuant to this
21 subsection. Technical assistance shall include appropriate
22 staffing, development of community resources, sponsorship,
23 supervision and any other requirements.

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

6 H. As used in this section:

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

12 2. "Electronically monitored home detention" means
13 incarceration of the defendant within a specified location or
14 locations with monitoring by means of a device approved by the
15 Department of Corrections that detects if the person leaves the
16 confines of any specified location; and

17 3. "Victims impact panel program" means a program conducted by
18 a corporation registered with the Secretary of State in Oklahoma for
19 the purpose of operating a victims impact panel program. The
20 program shall include live presentations from presenters who will
21 share personal stories with participants about how alcohol, drug
22 abuse, the operation of a motor vehicle while using an electronic
23 communication device or the illegal conduct of others has personally
24 impacted the lives of the presenters. A victims impact panel

1 program shall be attended by persons who have committed the offense
2 of driving, operating or being in actual physical control of a motor
3 vehicle while under the influence of alcohol or other intoxicating
4 substance, operating a motor vehicle while the ability of the person
5 to operate such vehicle was impaired due to the consumption of
6 alcohol or any other substance or operating a motor vehicle while
7 using an electronic device. Persons attending a victims impact
8 panel program shall be required to pay a fee of not more than Sixty
9 Dollars (\$60.00) to the provider of the program. A certificate of
10 completion shall be issued to the person upon satisfying the
11 attendance and fee requirements of the victims impact panel program.
12 The certificate of completion shall contain the business
13 identification number of the program provider. A victims impact
14 panel program shall not be provided by any certified assessment
15 agency or certified assessor ~~unless the assessment agency or~~
16 ~~certified assessor has been granted an exemption by the Commissioner~~
17 ~~of the Department of Mental Health and Substance Abuse Services.~~
18 The provider of the victims impact panel program shall carry general
19 liability insurance and maintain an accurate accounting of all
20 business transactions and funds received in relation to the victims
21 impact panel program. The provider of the victims impact panel
22 program shall annually provide to the Administrative Office of the
23 Courts the following:
24

- a. proof of registration with the Oklahoma Secretary of State,
- b. proof of general liability insurance,
- c. end-of-year financial statements prepared by a certified public accountant, and
- d. a copy of federal income tax returns filed with the Internal Revenue Service.

I. A person convicted of a felony offense or receiving any form of probation for an offense in which registration is required pursuant to the Sex Offenders Registration Act, shall submit to deoxyribonucleic acid DNA testing for law enforcement identification purposes in accordance with Section 150.27 of Title 74 of the Oklahoma Statutes and the rules promulgated by the Oklahoma State Bureau of Investigation for the OSBI Combined DNA Index System (CODIS) Database. Subject to the availability of funds, any person convicted of a misdemeanor offense of assault and battery, domestic abuse, stalking, possession of a controlled substance prohibited under Schedule IV of the Uniform Controlled Dangerous Substances Act, outraging public decency, resisting arrest, escape or attempting to escape, eluding a police officer, Peeping Tom, pointing a firearm, threatening an act of violence, breaking and entering a dwelling place, destruction of property, negligent homicide, or causing a personal injury accident while driving under the influence of any intoxicating substance, or any alien unlawfully

1 present under federal immigration law, upon arrest, shall submit to
2 deoxyribonucleic acid DNA testing for law enforcement identification
3 purposes in accordance with Section 150.27 of Title 74 of the
4 Oklahoma Statutes and the rules promulgated by the Oklahoma State
5 Bureau of Investigation for the OSBI Combined DNA Index System
6 (CODIS) Database. Any defendant sentenced to probation shall be
7 required to submit to testing within thirty (30) days of sentencing
8 either to the Department of Corrections or to the county sheriff or
9 other peace officer as directed by the court. Defendants who are
10 sentenced to a term of incarceration shall submit to testing in
11 accordance with Section 530.1 of Title 57 of the Oklahoma Statutes,
12 for those defendants who enter the custody of the Department of
13 Corrections or to the county sheriff, for those defendants sentenced
14 to incarceration in a county jail. Convicted individuals who have
15 previously submitted to DNA testing under this section and for whom
16 a valid sample is on file in the OSBI Combined DNA Index System
17 (CODIS) Database at the time of sentencing shall not be required to
18 submit to additional testing. Except as required by the Sex
19 Offenders Registration Act, a deferred judgment does not require
20 submission to deoxyribonucleic acid testing.

21 Any person who is incarcerated in the custody of the Department
22 of Corrections after July 1, 1996, and who has not been released
23 before January 1, 2006, shall provide a blood or saliva sample prior
24 to release. Every person subject to DNA testing after January 1,

1 2006, whose sentence does not include a term of confinement with the
2 Department of Corrections shall submit a blood or saliva sample.
3 Every person subject to DNA testing who is sentenced to unsupervised
4 probation or otherwise not supervised by the Department of
5 Corrections shall submit for blood or saliva testing to the sheriff
6 of the sentencing county.

7 J. Samples of blood or saliva for DNA testing required by
8 subsection I of this section shall be taken by employees or
9 contractors of the Department of Corrections, peace officers, or the
10 county sheriff or employees or contractors of the sheriff's office.
11 The individuals shall be properly trained to collect blood or saliva
12 samples. Persons collecting blood or saliva for DNA testing
13 pursuant to this section shall be immune from civil liabilities
14 arising from this activity. All collectors of DNA samples shall
15 ensure the collection of samples are mailed to the Oklahoma State
16 Bureau of Investigation within ten (10) days of the time the subject
17 appears for testing or within ten (10) days of the date the subject
18 comes into physical custody to serve a term of incarceration. All
19 collectors of DNA samples shall use sample kits provided by the OSBI
20 and procedures promulgated by the OSBI. Persons subject to DNA
21 testing who are not received at the Lexington Assessment and
22 Reception Center shall be required to pay a fee of Fifteen Dollars
23 (\$15.00) to the agency collecting the sample for submission to the
24 OSBI Combined DNA Index System (CODIS) Database. Any fees collected

1 pursuant to this subsection shall be deposited in the revolving
2 account or the service fee account of the collection agency or
3 department.

4 K. When sentencing a person who has been convicted of a crime
5 that would subject that person to the provisions of the Sex
6 Offenders Registration Act, neither the court nor the district
7 attorney shall be allowed to waive or exempt such person from the
8 registration requirements of the Sex Offenders Registration Act.

9 SECTION 2. This act shall become effective November 1, 2020.

10 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
11 February 25, 2020 - DO PASS
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