

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

SENATE BILL 1591

By: Weaver

AS INTRODUCED

An Act relating to the OSBI Combined DNA Index System; amending 20 O.S. 2011, Section 1313.2, as last amended by Section 6, Chapter 304, O.S.L. 2018 (21 O.S. Supp. 2019, Section 1313.2), which relates to court definitions; 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 the courts; amending 74 O.S. 2011, Section 150.27a, as last amended by Section 2, Chapter 374, O.S.L. 2019 (74 O.S. Supp. 2019, Section 150.27a), which relates to OSBI Combined DNA Index System (CODIS) Database; modifying qualifying scheduled substances; updating statutory language; 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 last amended by Section 6, Chapter 304, O.S.L. 2018 (20 O.S. Supp. 2019, 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 Ten Dollars (\$10.00) 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 (OSBI), by the Toxicology Laboratory
20 of the Office of the Chief Medical Examiner or by any municipality
21 or county in connection with the case. This fee shall be in
22 addition to and not a substitution for any and all fines and
23 penalties otherwise provided for by law for this offense.
24

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

9 b. the Office of the Chief Medical Examiner who shall
10 deposit the monies into the Chief Medical Examiner
11 Revolving Fund provided for in Section 948 of Title 63
12 of the Oklahoma Statutes for services rendered or
13 administered by the Office of the Chief Medical
14 Examiner, or

15 c. the appropriate municipality or county for services
16 rendered or administered by a municipality or county.

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

19 a. providing criminalistic laboratory services,

20 b. the purchase and maintenance of equipment for use by
21 the laboratory in performing analysis,

22 c. education, training, and scientific development of
23 OSBI personnel, and
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25

1 d. the destruction of seized property and chemicals as
2 prescribed in Sections 2-505 and 2-508 of Title 63 of
3 the Oklahoma Statutes.

4 D. Upon conviction or bond forfeiture, the court shall collect
5 the fee provided for in subsection B of this section and deposit it
6 in an account created for that purpose. Except as otherwise
7 provided in subsection E of this section, monies shall be forwarded
8 monthly by the court clerk to the Council on Law Enforcement
9 Education and Training (CLEET). Beginning July 1, 2003, deposits
10 shall be due on the fifteenth day of each month for the preceding
11 calendar month. There shall be a late fee imposed for failure to
12 make timely deposits; provided, CLEET, in its discretion, may waive
13 all or part of the late fee. Such late fee shall be one percent
14 (1%) of the principal amount due per day beginning from the tenth
15 day after payment is due and accumulating until the late fee reaches
16 one hundred percent (100%) of the principal amount due. Beginning
17 on July 1, 1987, ninety percent (90%) of the monies received by
18 CLEET from the court clerks pursuant to this section shall be
19 deposited in the CLEET Fund, and ten percent (10%) shall be
20 deposited in the General Revenue Fund. Beginning January 1, 2001,
21 sixty and fifty-three one-hundredths percent (60.53%) of the monies
22 received by CLEET from the court clerks pursuant to this section
23 shall be deposited in the CLEET Fund created pursuant to subsection
24 G of this section, five and eighty-three one-hundredths percent

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

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

21 F. 1. Any person entering a plea of guilty or nolo contendere
22 or is found guilty of the crime of misdemeanor possession of
23 marijuana or drug paraphernalia shall be ordered by the court to pay
24 a five-dollar fee, which shall be in addition to and not in

1 substitution for any and all fines and penalties otherwise provided
2 for by law for such offense.

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

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

17 H. 1. Any person arrested or convicted of a felony offense or
18 convicted of a misdemeanor offense of assault and battery, domestic
19 abuse, stalking, possession of a controlled substance prohibited
20 under ~~Schedule IV~~ of the Uniform Controlled Dangerous Substances
21 Act, outraging public decency, resisting arrest, escaping or
22 attempting to escape, eluding a police officer, Peeping Tom,
23 pointing a firearm, threatening an act of violence, breaking and
24 entering a dwelling place, destruction of property, negligent
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1 homicide or causing a personal injury accident while driving under
2 the influence of any intoxicating substance shall pay a DNA fee of
3 One Hundred Fifty Dollars (\$150.00). This fee shall not be
4 collected if the person has a valid DNA sample in the OSBI DNA
5 Offender Database at the time of sentencing.

6 2. The court clerk shall cause to be deposited the amount of
7 One Hundred Fifty Dollars (\$150.00) as collected for every felony
8 arrest, felony conviction or every conviction for a misdemeanor
9 offense of assault and battery, domestic abuse, stalking, possession
10 of a controlled substance prohibited under ~~Schedule IV~~ of the
11 Uniform Controlled Dangerous Substances Act, outraging public
12 decency, resisting arrest, escaping or attempting to escape, eluding
13 a police officer, Peeping Tom, pointing a firearm, threatening an
14 act of violence, breaking and entering a dwelling place, destruction
15 of property, negligent homicide or causing a personal injury
16 accident while driving under the influence of any intoxicating
17 substance as described in this subsection. The court clerk shall
18 remit the monies in ~~said~~ the fund on a monthly basis directly to the
19 OSBI who shall deposit the monies into the OSBI Revolving Fund
20 provided for in Section 150.19a of Title 74 of the Oklahoma Statutes
21 for services rendered or administered by the OSBI.

22 3. The monies from the DNA sample fee deposited into the OSBI
23 Revolving Fund shall be used for creating, staffing, and maintaining
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1 the OSBI DNA Laboratory and OSBI Combined DNA Index System (CODIS)
2 Database.

3 I. It shall be the responsibility of the court clerk to account
4 for and ensure the correctness and accuracy of payments made to the
5 state agencies identified in Sections 1313.2 through 1313.4 of this
6 title. Payments made directly to an agency by the court clerk as a
7 result of different types of assessments and fees pursuant to
8 Sections 1313.2 through 1313.4 of this title shall be made monthly
9 to each state agency.

10 SECTION 2. AMENDATORY 22 O.S. 2011, Section 991a, as
11 last amended by Section 10, Chapter 304, O.S.L. 2018 (22 O.S. Supp.
12 2019, Section 991a), is amended to read as follows:

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

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

21 a. to provide restitution to the victim as provided by
22 Section 991f et seq. of this title or according to a
23 schedule of payments established by the sentencing
24 court, together with interest upon any pecuniary sum

1 at the rate of twelve percent (12%) per annum, if the
2 defendant agrees to pay such restitution or, in the
3 opinion of the court, if the defendant is able to pay
4 such restitution without imposing manifest hardship on
5 the defendant or the immediate family and if the
6 extent of the damage to the victim is determinable
7 with reasonable certainty,

8 b. to reimburse any state agency for amounts paid by the
9 state agency for hospital and medical expenses
10 incurred by the victim or victims, as a result of the
11 criminal act for which such person was convicted,
12 which reimbursement shall be made directly to the
13 state agency, with interest accruing thereon at the
14 rate of twelve percent (12%) per annum,

15 c. to engage in a term of community service without
16 compensation, according to a schedule consistent with
17 the employment and family responsibilities of the
18 person convicted,

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

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

17 h. to reimburse the Oklahoma State Bureau of
18 Investigation for costs incurred by that agency during
19 its investigation of the crime for which the defendant
20 pleaded guilty, nolo contendere or was convicted,
21 including compensation for laboratory, technical, or
22 investigation services performed by the Bureau if, in
23 the opinion of the court, the defendant is able to pay
24 without imposing manifest hardship on the defendant,

1 and if the costs incurred by the Bureau during the
2 investigation of the defendant's case may be
3 determined with reasonable certainty,

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

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

22 k. to reimburse the court fund for amounts paid to court-
23 appointed attorneys for representing the defendant in
24 the case in which the person is being sentenced,

1. to participate in an assessment and evaluation by an assessment agency or assessment personnel certified by the Department of Mental Health and Substance Abuse Services pursuant to Section 3-460 of Title 43A of the Oklahoma Statutes and, as determined by the assessment, participate in an alcohol and drug substance abuse course or treatment program or both, pursuant to Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes, or as ordered by the court,
- m. to be placed in a victims impact panel program, as defined in subsection H of this section, or victim/offender reconciliation program and payment of a fee to the program of not less than Fifteen Dollars (\$15.00) nor more than Sixty Dollars (\$60.00) as set by the governing authority of the program to offset the cost of participation by the defendant. Provided, each victim/offender reconciliation program shall be required to obtain a written consent form voluntarily signed by the victim and defendant that specifies the methods to be used to resolve the issues, the obligations and rights of each person, and the confidentiality of the proceedings. Volunteer mediators and employees of a victim/offender reconciliation program shall be immune from liability

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

1 defendant from operating a motor vehicle if the
2 defendant has a blood or breath alcohol concentration
3 of two-hundredths (0.02) or greater,

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

23 p. to perform one or more courses of treatment, education
24 or rehabilitation for any conditions, behaviors,

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

- s. to be supervised by a Department of Corrections employee, a private supervision provider, or other person designated by the court,
- t. to obtain positive behavior modeling by a trained mentor,
- u. to serve a term of confinement in a restrictive housing facility available in the community,
- v. to serve a term of confinement in the county jail at night or during weekends pursuant to Section 991a-2 of this title or for work release,
- w. to obtain employment or participate in employment-related activities,
- x. to participate in mandatory day reporting to facilities or persons for services, payments, duties or person-to-person contacts as specified by the court,
- y. to pay day fines not to exceed fifty percent (50%) of the net wages earned. For purposes of this paragraph, "day fine" means the offender is ordered to pay an amount calculated as a percentage of net daily wages earned. The day fine shall be paid to the local community sentencing system as reparation to the community. Day fines shall be used to support the local system,

- 1 z. to submit to blood or saliva testing as required by
2 subsection I of this section,
- 3 aa. to repair or restore property damaged by the
4 defendant's conduct, if the court determines the
5 defendant possesses sufficient skill to repair or
6 restore the property and the victim consents to the
7 repairing or restoring of the property,
- 8 bb. to restore damaged property in kind or payment of out-
9 of-pocket expenses to the victim, if the court is able
10 to determine the actual out-of-pocket expenses
11 suffered by the victim,
- 12 cc. to attend a victim-offender reconciliation program if
13 the victim agrees to participate and the offender is
14 deemed appropriate for participation,
- 15 dd. in the case of a person convicted of prostitution
16 pursuant to Section 1029 of Title 21 of the Oklahoma
17 Statutes, require such person to receive counseling
18 for the behavior which may have caused such person to
19 engage in prostitution activities. Such person may be
20 required to receive counseling in areas including but
21 not limited to alcohol and substance abuse, sexual
22 behavior problems, or domestic abuse or child abuse
23 problems,
- 24

1 ee. in the case of a sex offender sentenced after November
2 1, 1989, and required by law to register pursuant to
3 the Sex Offender Registration Act, the court shall
4 require the person to comply with sex offender
5 specific rules and conditions of supervision
6 established by the Department of Corrections and
7 require the person to participate in a treatment
8 program designed for the treatment of sex offenders
9 during the period of time while the offender is
10 subject to supervision by the Department of
11 Corrections. The treatment program shall include
12 polygraph examinations specifically designed for use
13 with sex offenders for purposes of supervision and
14 treatment compliance, and shall be administered not
15 less than each six (6) months during the period of
16 supervision. The examination shall be administered by
17 a certified licensed polygraph examiner. The
18 treatment program must be approved by the Department
19 of Corrections or the Department of Mental Health and
20 Substance Abuse Services. Such treatment shall be at
21 the expense of the defendant based on the defendant's
22 ability to pay,

23 ff. in addition to other sentencing powers of the court,
24 the court in the case of a defendant being sentenced

1 for a felony conviction for a violation of Section 2-
2 402 of Title 63 of the Oklahoma Statutes which
3 involves marijuana may require the person to
4 participate in a drug court program, if available. If
5 a drug court program is not available, the defendant
6 may be required to participate in a community
7 sanctions program, if available,

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

20 Additionally, the court may require the offender to
21 pay restitution and bogus check fees on any other
22 bogus check or checks that have been submitted to the
23 District Attorney Bogus Check Restitution Program, and

24 hh. any other provision specifically ordered by the court.

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

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

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

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

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

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

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

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

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

17 b. to attend a victims impact panel program, as defined
18 in subsection H of this section, and to pay a fee of
19 not more than Sixty Dollars (\$60.00) as set by the
20 governing authority of the program and approved by the
21 court, to the program to offset the cost of
22 participation by the defendant, if in the opinion of
23 the court the defendant has the ability to pay such
24 fee,

- 1 c. to both participate in the alcohol and drug substance
2 abuse course or treatment program, pursuant to
3 subparagraph a of this paragraph and attend a victims
4 impact panel program, pursuant to subparagraph b of
5 this paragraph,
- 6 d. to install, at the expense of the person, an ignition
7 interlock device approved by the Board of Tests for
8 Alcohol and Drug Influence, upon every motor vehicle
9 operated by such person and to require that a notation
10 of this restriction be affixed to the person's driver
11 license at the time of reinstatement of the license.
12 The restriction shall remain on the driver license for
13 such period as the court shall determine. The
14 restriction may be modified or removed by order of the
15 court and notice of the order shall be given to the
16 Department of Public Safety. Upon the expiration of
17 the period for the restriction, the Department of
18 Public Safety shall remove the restriction without
19 further court order. Failure to comply with the order
20 to install an ignition interlock device or operating
21 any vehicle without such device during the period of
22 restriction shall be a violation of the sentence and
23 may be punished as deemed proper by the sentencing
24 court, or

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

13 8. In addition to the other sentencing powers of the court, in
14 the case of a person convicted of prostitution pursuant to Section
15 1029 of Title 21 of the Oklahoma Statutes, require such person to
16 receive counseling for the behavior which may have caused such
17 person to engage in prostitution activities. Such person may be
18 required to receive counseling in areas including but not limited to
19 alcohol and substance abuse, sexual behavior problems, or domestic
20 abuse or child abuse problems;

21 9. In addition to the other sentencing powers of the court, in
22 the case of a person convicted of any crime related to domestic
23 abuse, as defined in Section 60.1 of this title, the court may
24 require the defendant to undergo the treatment or participate in the

1 counseling services necessary to bring about the cessation of
2 domestic abuse against the victim. The defendant may be required to
3 pay all or part of the cost of the treatment or counseling services;

4 10. In addition to the other sentencing powers of the court,
5 the court, in the case of a sex offender sentenced after November 1,
6 1989, and required by law to register pursuant to the Sex Offenders
7 Registration Act, shall require the person to participate in a
8 treatment program designed specifically for the treatment of sex
9 offenders, if available. The treatment program will include
10 polygraph examinations specifically designed for use with sex
11 offenders for the purpose of supervision and treatment compliance,
12 provided the examination is administered by a certified licensed
13 polygraph examiner. The treatment program must be approved by the
14 Department of Corrections or the Department of Mental Health and
15 Substance Abuse Services. Such treatment shall be at the expense of
16 the defendant based on the defendant's ability to pay;

17 11. In addition to the other sentencing powers of the court,
18 the court, in the case of a person convicted of child abuse or
19 neglect, as defined in Section 1-1-105 of Title 10A of the Oklahoma
20 Statutes, may require the person to undergo treatment or to
21 participate in counseling services. The defendant may be required
22 to pay all or part of the cost of the treatment or counseling
23 services;

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

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

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

22 15. In addition to the other sentencing powers of the court, in
23 the case of a sex offender who is required by law to register
24 pursuant to the Sex Offenders Registration Act, the court shall

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

6 B. Notwithstanding any other provision of law, any person who
7 is found guilty of a violation of any provision of Section 761 or
8 11-902 of Title 47 of the Oklahoma Statutes or any person pleading
9 guilty or nolo contendere for a violation of any provision of such
10 sections shall be ordered to participate in, prior to sentencing, an
11 alcohol and drug assessment and evaluation by an assessment agency
12 or assessment personnel certified by the Department of Mental Health
13 and Substance Abuse Services for the purpose of evaluating the
14 receptivity to treatment and prognosis of the person. The court
15 shall order the person to reimburse the agency or assessor for the
16 evaluation. The fee shall be the amount provided in subsection C of
17 Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation
18 shall be conducted at a certified assessment agency, the office of a
19 certified assessor or at another location as ordered by the court.
20 The agency or assessor shall, within seventy-two (72) hours from the
21 time the person is assessed, submit a written report to the court
22 for the purpose of assisting the court in its final sentencing
23 determination. No person, agency or facility operating an alcohol
24 and drug substance abuse evaluation program certified by the

1 Department of Mental Health and Substance Abuse Services shall
2 solicit or refer any person evaluated pursuant to this subsection
3 for any treatment program or alcohol and drug substance abuse
4 service in which such person, agency or facility has a vested
5 interest; however, this provision shall not be construed to prohibit
6 the court from ordering participation in or any person from
7 voluntarily utilizing a treatment program or alcohol and drug
8 substance abuse service offered by such person, agency or facility.
9 If a person is sentenced to the custody of the Department of
10 Corrections and the court has received a written evaluation report
11 pursuant to this subsection, the report shall be furnished to the
12 Department of Corrections with the judgment and sentence. Any
13 evaluation report submitted to the court pursuant to this subsection
14 shall be handled in a manner which will keep such report
15 confidential from the general public's review. Nothing contained in
16 this subsection shall be construed to prohibit the court from
17 ordering judgment and sentence in the event the defendant fails or
18 refuses to comply with an order of the court to obtain the
19 evaluation required by this subsection.

20 C. When sentencing a person convicted of a crime, the court
21 shall first consider a program of restitution for the victim, as
22 well as imposition of a fine or incarceration of the offender. The
23 provisions of paragraph 1 of subsection A of this section shall not
24 apply to defendants being sentenced upon their third or subsequent

1 to their third conviction of a felony or, beginning January 1, 1993,
2 to defendants being sentenced for their second or subsequent felony
3 conviction for violation of Section 11-902 of Title 47 of the
4 Oklahoma Statutes, except as otherwise provided in this subsection.
5 In the case of a person being sentenced for their second or
6 subsequent felony conviction for violation of Section 11-902 of
7 Title 47 of the Oklahoma Statutes, the court may sentence the person
8 pursuant to the provisions of paragraph 1 of subsection A of this
9 section if the court orders the person to submit to electronically
10 monitored home detention administered and supervised by the
11 Department of Corrections pursuant to subparagraph e of paragraph 7
12 of subsection A of this section. Provided, the court may waive
13 these prohibitions upon written application of the district
14 attorney. Both the application and the waiver shall be made part of
15 the record of the case.

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

19 E. Probation, for purposes of subsection A of this section, is
20 a procedure by which a defendant found guilty of a crime, whether
21 upon a verdict or plea of guilty or upon a plea of nolo contendere,
22 is released by the court subject to conditions imposed by the court
23 and subject to supervision by the Department of Corrections, a
24 private supervision provider or other person designated by the

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

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

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

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

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

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

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

1 H. As used in this section:

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

7 2. "Electronically monitored home detention" means
8 incarceration of the defendant within a specified location or
9 locations with monitoring by means of a device approved by the
10 Department of Corrections that detects if the person leaves the
11 confines of any specified location; and

12 3. "Victims impact panel program" means a program conducted by
13 a corporation registered with the Secretary of State in Oklahoma for
14 the purpose of operating a victims impact panel program. The
15 program shall include live presentations from presenters who will
16 share personal stories with participants about how alcohol, drug
17 abuse, the operation of a motor vehicle while using an electronic
18 communication device or the illegal conduct of others has personally
19 impacted the lives of the presenters. A victims impact panel
20 program shall be attended by persons who have committed the offense
21 of driving, operating or being in actual physical control of a motor
22 vehicle while under the influence of alcohol or other intoxicating
23 substance, operating a motor vehicle while the ability of the person
24 to operate such vehicle was impaired due to the consumption of

1 alcohol or any other substance or operating a motor vehicle while
2 using an electronic device. Persons attending a victims impact
3 panel program shall be required to pay a fee of not more than Sixty
4 Dollars (\$60.00) to the provider of the program. A certificate of
5 completion shall be issued to the person upon satisfying the
6 attendance and fee requirements of the victims impact panel program.
7 The certificate of completion shall contain the business
8 identification number of the program provider. A victims impact
9 panel program shall not be provided by any certified assessment
10 agency or certified assessor unless the assessment agency or
11 certified assessor has been granted an exemption by the Commissioner
12 of the Department of Mental Health and Substance Abuse Services.
13 The provider of the victims impact panel program shall carry general
14 liability insurance and maintain an accurate accounting of all
15 business transactions and funds received in relation to the victims
16 impact panel program. The provider of the victims impact panel
17 program shall annually provide to the Administrative Office of the
18 Courts the following:

- 19 a. proof of registration with the Oklahoma Secretary of
20 State,
- 21 b. proof of general liability insurance,
- 22 c. end-of-year financial statements prepared by a
23 certified public accountant, and
24

1 d. a copy of federal income tax returns filed with the
2 Internal Revenue Service.

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

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

16 Any person who is incarcerated in the custody of the Department
17 of Corrections after July 1, 1996, and who has not been released
18 before January 1, 2006, shall provide a blood or saliva sample prior
19 to release. Every person subject to DNA testing after January 1,
20 2006, whose sentence does not include a term of confinement with the
21 Department of Corrections shall submit a blood or saliva sample.
22 Every person subject to DNA testing who is sentenced to unsupervised
23 probation or otherwise not supervised by the Department of
24

1 Corrections shall submit for blood or saliva testing to the sheriff
2 of the sentencing county.

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

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

6 SECTION 3. AMENDATORY 74 O.S. 2011, Section 150.27a, as
7 last amended by Section 2, Chapter 374, O.S.L. 2019 (74 O.S. Supp.
8 2019, Section 150.27a), is amended to read as follows:

9 Section 150.27a. A. There is hereby established within the
10 Oklahoma State Bureau of Investigation the OSBI Combined DNA Index
11 System (CODIS) Database for the purpose of collecting and storing
12 blood or saliva samples and DNA profiles, analyzing and typing of
13 the genetic markers contained in or derived from DNA, and
14 maintaining the records and samples of DNA of individuals:

- 15 1. Convicted of any felony offense;
- 16 2. Required to register pursuant to the Sex Offenders
17 Registration Act;
- 18 3. Subject to the availability of funds, eighteen (18) years of
19 age or older arrested for the commission of a felony under the laws
20 of this state or any other jurisdiction, upon being booked into a
21 jail or detention facility. Provided, the DNA sample shall not be
22 analyzed and shall be destroyed unless one of the following
23 conditions has been met:

- a. the arrest was made upon a valid felony arrest or warrant,
- b. the person has appeared before a judge or magistrate judge who made a finding that there was probable cause for the arrest,
- c. the person posted bond or was released prior to appearing before a judge or magistrate judge and then failed to appear for a scheduled hearing, or
- d. the DNA sample was provided as a condition of a plea agreement; and

4. Subject to the availability of funds, 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, escaping 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, upon arrest, any alien unlawfully present under federal immigration law.

The purpose of this database is the detection or exclusion of individuals who are subjects of the investigation or prosecution of sex-related crimes, violent crimes, or other crimes in which

1 biological evidence is recovered, and such information shall be used
2 for no other purpose.

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

10 C. Upon the request to OSBI by the federal or state authority
11 having custody of the person, any individual who was convicted of
12 violating laws of another state or the federal government, but is
13 currently incarcerated or residing in Oklahoma, shall submit to DNA
14 profiling for entry of the data into the OSBI DNA Offender Database.
15 This provision shall only apply when such federal or state
16 conviction carries a requirement of sex offender registration or DNA
17 profiling. The person to be profiled shall pay a fee of One Hundred
18 Fifty Dollars (\$150.00) to the OSBI.

19 D. The OSBI CODIS Database is specifically exempt from any
20 statute requiring disclosure of information to the public. The
21 information contained in the database is privileged from discovery
22 and inadmissible as evidence in any civil court proceeding. The
23 information in the database is confidential and shall not be
24 released to the public. Any person charged with the custody and

1 dissemination of information from the database shall not divulge or
2 disclose any such information except to federal, state, county or
3 municipal law enforcement or criminal justice agencies. Any person
4 violating the provisions of this section upon conviction shall be
5 deemed guilty of a misdemeanor punishable by imprisonment in the
6 county jail for not more than one (1) year.

7 E. The OSBI shall promulgate rules concerning the collection,
8 storing, expungement and dissemination of information and samples
9 for the OSBI CODIS Database. The OSBI shall determine the type of
10 equipment, collection procedures, and reporting documentation to be
11 used by the Department of Corrections, a county sheriff's office or
12 a law enforcement agency in submitting DNA samples to the OSBI in
13 accordance with Section 991a of Title 22 of the Oklahoma Statutes.
14 The OSBI shall provide training to designated employees of the
15 Department of Corrections, a county sheriff's office and a law
16 enforcement agency in the proper methods of performing the duties
17 required by this section.

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

20 1. Forensic index database consisting of unknown evidence
21 samples;

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

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

3 4. Missing persons and unidentified remains index or database
4 consisting of DNA profiles from unidentified remains and relatives
5 of missing persons.

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

8 2. Subject to the availability of funds, any person convicted
9 of a misdemeanor offense of assault and battery, domestic abuse,
10 stalking, possession of a controlled substance prohibited under
11 ~~Schedule IV of~~ the Uniform Controlled Dangerous Substances Act,
12 outraging public decency, resisting arrest, escaping or attempting
13 to escape, eluding a police officer, Peeping Tom, pointing a
14 firearm, threatening an act of violence, breaking and entering a
15 dwelling place, destruction of property, negligent homicide, or
16 causing a personal injury incident while driving under the influence
17 of any intoxicating substance who is in custody shall provide a
18 blood or saliva sample prior to release.

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

22 4. Subject to the availability of funds, every person who is
23 convicted of a misdemeanor offense of assault and battery, domestic
24 abuse, stalking, possession of a controlled substance prohibited
25

1 under ~~Schedule IV~~ of the Uniform Controlled Dangerous Substances
2 Act, outraging public decency, resisting arrest, escape or
3 attempting to escape, eluding a police officer, Peeping Tom,
4 pointing a firearm, threatening an act of violence, breaking and
5 entering a dwelling place, destruction of property, negligent
6 homicide, or causing a personal injury accident while driving under
7 the influence of any intoxicating substance whose sentence does not
8 include a term of incarceration shall provide a blood or saliva
9 sample as a condition of sentence.

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

- 17 a. the arrest was made upon a valid felony arrest or
18 warrant,
- 19 b. the person has appeared before a judge or magistrate
20 judge who made a finding that there was probable cause
21 for the arrest,
- 22 c. the person posted bond or was released prior to
23 appearing before a judge or magistrate judge and then
24 failed to appear for a scheduled hearing, or

1 d. the DNA sample was provided as a condition of a plea
2 agreement.

3 SECTION 4. This act shall become effective November 1, 2020.
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