

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL 1776

By: Conley of the House

and

Weaver of the Senate

COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma State Bureau of Investigation; amending 20 O.S. 2011, Section 1313.2, as last amended by Section 6, Chapter 304, O.S.L. 2018 (20 O.S. Supp. 2020, Section 1313.2), which relates to court definitions; amending 22 O.S. 2011, Section 991a, as last amended by Section 1, Chapter 46, O.S.L. 2020 (22 O.S. Supp. 2020, Section 991a), which relates to sentencing powers of the courts; modifying qualifying scheduled substances; amending 74 O.S. 2011, Section 150.21, which relates to the legal division of the Oklahoma State Bureau of Investigation; deleting certain limitation; modifying exception to allow for certain appearances by attorneys of the Bureau; amending 74 O.S. 2011, Section 150.27a, as last amended by Section 2, Chapter 374, O.S.L. 2019 (74 O.S. Supp. 2020, 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. 2020, 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;

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

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

4. "DNA" means Deoxyribonucleic acid.

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

C. 1. Any person convicted of any misdemeanor or felony offense shall pay a Laboratory Analysis Fee in the amount of One Hundred Fifty Dollars (\$150.00) for each offense if forensic science or laboratory services are rendered or administered by the Oklahoma

1 State Bureau of Investigation (OSBI), by the Toxicology Laboratory
2 of the Office of the Chief Medical Examiner or by any municipality
3 or county in connection with the case. This fee shall be in
4 addition to and not a substitution for any and all fines and
5 penalties otherwise provided for by law for this offense.

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

10 a. the OSBI who shall deposit the monies into the OSBI
11 Revolving Fund provided for in Section 150.19a of
12 Title 74 of the Oklahoma Statutes for services
13 rendered or administered by the OSBI,

14 b. the Office of the Chief Medical Examiner who shall
15 deposit the monies into the Chief Medical Examiner
16 Revolving Fund provided for in Section 948 of Title 63
17 of the Oklahoma Statutes for services rendered or
18 administered by the Office of the Chief Medical
19 Examiner, or

20 c. the appropriate municipality or county for services
21 rendered or administered by a municipality or county.

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

24 a. providing criminalistic laboratory services,

- b. the purchase and maintenance of equipment for use by the laboratory in performing analysis,
- c. education, training, and scientific development of OSBI personnel, and
- d. the destruction of seized property and chemicals as prescribed in Sections 2-505 and 2-508 of Title 63 of the Oklahoma Statutes.

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

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

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

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

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

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

21 H. 1. Any person arrested or convicted of a felony offense or
22 convicted of a misdemeanor offense of assault and battery, domestic
23 abuse, stalking, possession of a controlled substance prohibited
24 under Schedule IV of the Uniform Controlled Dangerous Substances

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

10 2. The court clerk shall cause to be deposited the amount of
11 One Hundred Fifty Dollars (\$150.00) as collected for every felony
12 arrest, felony conviction or every conviction for a misdemeanor
13 offense of assault and battery, domestic abuse, stalking, possession
14 of a controlled substance prohibited under ~~Schedule IV~~ of the
15 Uniform Controlled Dangerous Substances Act, outraging public
16 decency, resisting arrest, escaping or attempting to escape, eluding
17 a police officer, Peeping Tom, pointing a firearm, threatening an
18 act of violence, breaking and entering a dwelling place, destruction
19 of property, negligent homicide or causing a personal injury
20 accident while driving under the influence of any intoxicating
21 substance as described in this subsection. The court clerk shall
22 remit the monies in ~~said~~ the fund on a monthly basis directly to the
23 OSBI who shall deposit the monies into the OSBI Revolving Fund
24

provided for in Section 150.19a of Title 74 of the Oklahoma Statutes for services rendered or administered by the OSBI.

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

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

SECTION 2. AMENDATORY 22 O.S. 2011, Section 991a, as last amended by Section 1, Chapter 46, O.S.L. 2020 (22 O.S. Supp. 2020, 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 convicted defendant at the time of sentencing or at any time during the suspended sentence to do one or more of the following:

- 1 a. to provide restitution to the victim as provided by
2 Section 991f et seq. of this title or according to a
3 schedule of payments established by the sentencing
4 court, together with interest upon any pecuniary sum
5 at the rate of twelve percent (12%) per annum, if the
6 defendant agrees to pay such restitution or, in the
7 opinion of the court, if the defendant is able to pay
8 such restitution without imposing manifest hardship on
9 the defendant or the immediate family and if the
10 extent of the damage to the victim is determinable
11 with reasonable certainty,
- 12 b. to reimburse any state agency for amounts paid by the
13 state agency for hospital and medical expenses
14 incurred by the victim or victims, as a result of the
15 criminal act for which such person was convicted,
16 which reimbursement shall be made directly to the
17 state agency, with interest accruing thereon at the
18 rate of twelve percent (12%) per annum,
- 19 c. to engage in a term of community service without
20 compensation, according to a schedule consistent with
21 the employment and family responsibilities of the
22 person convicted,
- 23 d. to pay a reasonable sum into any trust fund,
24 established pursuant to the provisions of Sections 176

1 through 180.4 of Title 60 of the Oklahoma Statutes,
2 and which provides restitution payments by convicted
3 defendants to victims of crimes committed within this
4 state wherein such victim has incurred a financial
5 loss,

6 e. to confinement in the county jail for a period not to
7 exceed six (6) months,

8 f. to confinement as provided by law together with a term
9 of post-imprisonment community supervision for not
10 less than three (3) years of the total term allowed by
11 law for imprisonment, with or without restitution;
12 provided, however, the authority of this provision is
13 limited to Section 843.5 of Title 21 of the Oklahoma
14 Statutes when the offense involved sexual abuse or
15 sexual exploitation; Sections 681, 741 and 843.1 of
16 Title 21 of the Oklahoma Statutes when the offense
17 involved sexual abuse or sexual exploitation; and
18 Sections 865 et seq., 885, 886, 888, 891, 1021,
19 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and
20 1123 of Title 21 of the Oklahoma Statutes,

21 g. to repay the reward or part of the reward paid by a
22 local certified crime stoppers program and the
23 Oklahoma Reward System. In determining whether the
24 defendant shall repay the reward or part of the

1 reward, the court shall consider the ability of the
2 defendant to make the payment, the financial hardship
3 on the defendant to make the required payment, and the
4 importance of the information to the prosecution of
5 the defendant as provided by the arresting officer or
6 the district attorney with due regard for the
7 confidentiality of the records of the local certified
8 crime stoppers program and the Oklahoma Reward System.
9 The court shall assess this repayment against the
10 defendant as a cost of prosecution. The term
11 "certified" means crime stoppers organizations that
12 annually meet the certification standards for crime
13 stoppers programs established by the Oklahoma Crime
14 Stoppers Association to the extent those standards do
15 not conflict with state statutes. The term "court"
16 refers to all municipal and district courts within
17 this state. The "Oklahoma Reward System" means the
18 reward program established by Section 150.18 of Title
19 74 of the Oklahoma Statutes,

20 h. to reimburse the Oklahoma State Bureau of
21 Investigation for costs incurred by that agency during
22 its investigation of the crime for which the defendant
23 pleaded guilty, nolo contendere or was convicted,
24 including compensation for laboratory, technical, or

1 investigation services performed by the Bureau if, in
2 the opinion of the court, the defendant is able to pay
3 without imposing manifest hardship on the defendant,
4 and if the costs incurred by the Bureau during the
5 investigation of the defendant's case may be
6 determined with reasonable certainty,

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

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

- 1 k. to reimburse the court fund for amounts paid to court-
- 2 appointed attorneys for representing the defendant in
- 3 the case in which the person is being sentenced,
- 4 l. to participate in an assessment and evaluation by an
- 5 assessment agency or assessment personnel certified by
- 6 the Department of Mental Health and Substance Abuse
- 7 Services pursuant to Section 3-460 of Title 43A of the
- 8 Oklahoma Statutes and, as determined by the
- 9 assessment, participate in an alcohol and drug
- 10 substance abuse course or treatment program or both,
- 11 pursuant to Sections 3-452 and 3-453 of Title 43A of
- 12 the Oklahoma Statutes, or as ordered by the court,
- 13 m. to be placed in a victims impact panel program, as
- 14 defined in subsection H of this section, or
- 15 victim/offender reconciliation program and payment of
- 16 a fee to the program of Seventy-five Dollars (\$75.00)
- 17 as set by the governing authority of the program to
- 18 offset the cost of participation by the defendant.
- 19 Provided, each victim/offender reconciliation program
- 20 shall be required to obtain a written consent form
- 21 voluntarily signed by the victim and defendant that
- 22 specifies the methods to be used to resolve the
- 23 issues, the obligations and rights of each person, and
- 24 the confidentiality of the proceedings. Volunteer

mediators and employees of a victim/offender reconciliation program shall be immune from liability and have rights of confidentiality as provided in Section 1805 of Title 12 of the Oklahoma Statutes,

n. to install, at the expense of the defendant, an ignition interlock device approved by the Board of Tests for Alcohol and Drug Influence. The device shall be installed upon every motor vehicle operated by the defendant, and the court shall require that a notation of this restriction be affixed to the defendant's driver license. The restriction shall remain on the driver license not exceeding two (2) years to be determined by the court. The restriction may be modified or removed only by order of the court and notice of any modification order shall be given to the Department of Public Safety. Upon the expiration of the period for the restriction, the Department of Public Safety shall remove the restriction without further court order. Failure to comply with the order to install an ignition interlock device or operating any vehicle without a device during the period of restriction shall be a violation of the sentence and may be punished as deemed proper by the sentencing court. As used in this paragraph, "ignition interlock

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

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

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

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

community. Day fines shall be used to support the local system,

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

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

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

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

dd. in the case of a person convicted of prostitution pursuant to Section 1029 of Title 21 of the Oklahoma Statutes, require such person to receive counseling for the behavior which may have caused such person to engage in prostitution activities. Such person may be required to receive counseling in areas including but not limited to alcohol and substance abuse, sexual

1 behavior problems, or domestic abuse or child abuse
2 problems,

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

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

10 gg. in the case of a person convicted of any false or
11 bogus check violation, as defined in Section 1541.4 of
12 Title 21 of the Oklahoma Statutes, impose a fee of
13 Twenty-five Dollars (\$25.00) to the victim for each
14 check, and impose a bogus check fee to be paid to the
15 district attorney. The bogus check fee paid to the
16 district attorney shall be equal to the amount
17 assessed as court costs plus Twenty-five Dollars
18 (\$25.00) for each check upon filing of the case in
19 district court. This money shall be deposited in the
20 Bogus Check Restitution Program Fund as established in
21 subsection B of Section 114 of this title.
22 Additionally, the court may require the offender to
23 pay restitution and bogus check fees on any other
24

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

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

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

23 2. Impose a fine prescribed by law for the offense, with or
24 without probation or commitment and with or without restitution or

1 service as provided for in this section, Section 991a-4.1 of this
2 title or Section 227 of Title 57 of the Oklahoma Statutes;

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

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

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

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

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

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

19 b. to attend a victims impact panel program, as defined
20 in subsection H of this section, and to pay a fee of
21 Seventy-five Dollars (\$75.00) as set by the governing
22 authority of the program and approved by the court, to
23 the program to offset the cost of participation by the
24

1 defendant, if in the opinion of the court the
2 defendant has the ability to pay such fee,

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

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

1 may be punished as deemed proper by the sentencing
2 court, or

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

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

23 9. In addition to the other sentencing powers of the court, in
24 the case of a person convicted of any crime related to domestic

1 abuse, as defined in Section 60.1 of this title, the court may
2 require the defendant to undergo the treatment or participate in the
3 counseling services necessary to bring about the cessation of
4 domestic abuse against the victim. The defendant may be required to
5 pay all or part of the cost of the treatment or counseling services;

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

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

1 to pay all or part of the cost of the treatment or counseling
2 services;

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

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

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

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 his or her 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 sole 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 Seventy-five Dollars
9 (\$75.00) 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 certified
14 assessment agency, certified assessor or provider of an alcohol and
15 drug substance abuse course shall be prohibited from providing a
16 victims impact panel program and shall further be prohibited from
17 having any proprietary or pecuniary interest in a victims impact
18 panel program. The provider of the victims impact panel program
19 shall carry general liability insurance and maintain an accurate
20 accounting of all business transactions and funds received in
21 relation to the victims impact panel program. Beginning October 1,
22 2020, and each October 1 thereafter, the provider of the victims
23 impact panel program shall provide to the District Attorneys Council
24 the following:

- 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,
- d. a copy of federal income tax returns filed with the Internal Revenue Service,
- e. a registration fee of One Thousand Dollars (\$1,000.00). The registration fee shall be deposited in the District Attorneys Council Revolving Fund created in Section 215.28 of Title 19 of the Oklahoma Statutes, and
- f. a statement certifying that the provider of the victims impact panel program has complied with all of the requirements set forth in this paragraph.

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

1 battery, domestic abuse, stalking, possession of a controlled
2 substance prohibited under ~~Schedule IV~~ of the Uniform Controlled
3 Dangerous Substances Act, outraging public decency, resisting
4 arrest, escape or attempting to escape, eluding a police officer,
5 Peeping Tom, pointing a firearm, threatening an act of violence,
6 breaking and entering a dwelling place, destruction of property,
7 negligent homicide, or causing a personal injury accident while
8 driving under the influence of any intoxicating substance, or any
9 alien unlawfully present under federal immigration law, upon arrest,
10 shall submit to DNA testing for law enforcement identification
11 purposes in accordance with Section 150.27 of Title 74 of the
12 Oklahoma Statutes and the rules promulgated by the Oklahoma State
13 Bureau of Investigation for the OSBI Combined DNA Index System
14 (CODIS) Database. Any defendant sentenced to probation shall be
15 required to submit to testing within thirty (30) days of sentencing
16 either to the Department of Corrections or to the county sheriff or
17 other peace officer as directed by the court. Defendants who are
18 sentenced to a term of incarceration shall submit to testing in
19 accordance with Section 530.1 of Title 57 of the Oklahoma Statutes,
20 for those defendants who enter the custody of the Department of
21 Corrections or to the county sheriff, for those defendants sentenced
22 to incarceration in a county jail. Convicted individuals who have
23 previously submitted to DNA testing under this section and for whom
24 a valid sample is on file in the OSBI Combined DNA Index System

1 (CODIS) Database at the time of sentencing shall not be required to
2 submit to additional testing. Except as required by the Sex
3 Offenders Registration Act, a deferred judgment does not require
4 submission to DNA testing.

5 Any person who is incarcerated in the custody of the Department
6 of Corrections after July 1, 1996, and who has not been released
7 before January 1, 2006, shall provide a blood or saliva sample prior
8 to release. Every person subject to DNA testing after January 1,
9 2006, whose sentence does not include a term of confinement with the
10 Department of Corrections shall submit a blood or saliva sample.
11 Every person subject to DNA testing who is sentenced to unsupervised
12 probation or otherwise not supervised by the Department of
13 Corrections shall submit for blood or saliva testing to the sheriff
14 of the sentencing county.

15 J. Samples of blood or saliva for DNA testing required by
16 subsection I of this section shall be taken by employees or
17 contractors of the Department of Corrections, peace officers, or the
18 county sheriff or employees or contractors of the sheriff's office.
19 The individuals shall be properly trained to collect blood or saliva
20 samples. Persons collecting blood or saliva for DNA testing
21 pursuant to this section shall be immune from civil liabilities
22 arising from this activity. All collectors of DNA samples shall
23 ensure the collection of samples are mailed to the Oklahoma State
24 Bureau of Investigation within ten (10) days of the time the subject

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

12 K. When sentencing a person who has been convicted of a crime
13 that would subject that person to the provisions of the Sex
14 Offenders Registration Act, neither the court nor the district
15 attorney shall be allowed to waive or exempt such person from the
16 registration requirements of the Sex Offenders Registration Act.

17 SECTION 3. AMENDATORY 74 O.S. 2011, Section 150.21, is
18 amended to read as follows:

19 Section 150.21. A. The Oklahoma State Bureau of Investigation
20 shall establish or provide for a legal division and the Director may
21 employ ~~two~~ attorneys as needed, which attorneys, in addition to
22 advising the Director, the Commission and employees of the Bureau on
23 legal matters, may appear for and represent the Director, the
24 Commission and employees of the Bureau in administrative hearings

1 and other legal actions and proceedings. No ~~Bureau~~ attorney of the
2 Bureau shall enter an appearance in a criminal action nor engage in
3 private practice of the law while in the employment of the Oklahoma
4 State Bureau of Investigation, except for the purpose of
5 representing the agency in motions to quash subpoenas, other
6 discovery matters, expungement applications, evidentiary hearings,
7 ~~and~~ forfeiture proceedings or when requested to do so by another
8 prosecuting authority.

9 B. It shall continue to be the duty of the Attorney General to
10 give official opinions to and to prosecute and defend actions for
11 the Director, Commission and employees of the Bureau, if requested
12 to do so.

13 SECTION 4. AMENDATORY 74 O.S. 2011, Section 150.27a, as
14 last amended by Section 2, Chapter 374, O.S.L. 2019 (74 O.S. Supp.
15 2020, Section 150.27a), is amended to read as follows:

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

- 22 1. Convicted of any felony offense;
- 23 2. Required to register pursuant to the Sex Offenders
24 Registration Act;

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

7 a. the arrest was made upon a valid felony arrest or
8 warrant,

9 b. the person has appeared before a judge or magistrate
10 judge who made a finding that there was probable cause
11 for the arrest,

12 c. the person posted bond or was released prior to
13 appearing before a judge or magistrate judge and then
14 failed to appear for a scheduled hearing, or

15 d. the DNA sample was provided as a condition of a plea
16 agreement; and

17 4. Subject to the availability of funds, convicted of a
18 misdemeanor offense of assault and battery, domestic abuse,
19 stalking, possession of a controlled substance prohibited under
20 ~~Schedule IV of~~ the Uniform Controlled Dangerous Substances Act,
21 outraging public decency, resisting arrest, escaping or attempting
22 to escape, eluding a police officer, Peeping Tom, pointing a
23 firearm, threatening an act of violence, breaking and entering a
24 dwelling place, destruction of property, negligent homicide, or

1 causing a personal injury accident while driving under the influence
2 of any intoxicating substance, or, upon arrest, any alien unlawfully
3 present under federal immigration law.

4 The purpose of this database is the detection or exclusion of
5 individuals who are subjects of the investigation or prosecution of
6 sex-related crimes, violent crimes, or other crimes in which
7 biological evidence is recovered, and such information shall be used
8 for no other purpose.

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

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

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

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

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

3 1. Forensic index database consisting of unknown evidence
4 samples;

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

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

9 4. Missing persons and unidentified remains index or database
10 consisting of DNA profiles from unidentified remains and relatives
11 of missing persons.

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

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

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

4 4. Subject to the availability of funds, every person who is
5 convicted of a misdemeanor offense of assault and battery, domestic
6 abuse, stalking, possession of a controlled substance prohibited
7 under ~~Schedule IV of~~ the Uniform Controlled Dangerous Substances
8 Act, outraging public decency, resisting arrest, escape or
9 attempting to escape, eluding a police officer, Peeping Tom,
10 pointing a firearm, threatening an act of violence, breaking and
11 entering a dwelling place, destruction of property, negligent
12 homicide, or causing a personal injury accident while driving under
13 the influence of any intoxicating substance whose sentence does not
14 include a term of incarceration shall provide a blood or saliva
15 sample as a condition of sentence.

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

- 23 a. the arrest was made upon a valid felony arrest or
24 warrant,

- 1 b. the person has appeared before a judge or magistrate
2 judge who made a finding that there was probable cause
3 for the arrest,
4 c. the person posted bond or was released prior to
5 appearing before a judge or magistrate judge and then
6 failed to appear for a scheduled hearing, or
7 d. the DNA sample was provided as a condition of a plea
8 agreement.

9 SECTION 5. This act shall become effective November 1, 2021.

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