

<DateSubmitted>

HOUSE OF REPRESENTATIVES
CONFERENCE COMMITTEE REPORT

Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB3196

By: Williams of the House and Daniels of the Senate

Title: Fees and fines; creating the Burt Holmes Fee Structure Policy Act of 2022; eliminating fees, fines and costs; effective date.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its amendment; and
2. That the attached Conference Committee Amendment be adopted.

Respectfully submitted,

House Action _____ Date _____ Senate Action _____ Date _____

SENATE CONFEREES: GCCA (must be signed out at a Senate GCCA meeting)

Brooks _____

Dossett _____

Dugger _____

Floyd _____

Hall _____

Haste _____

Howard _____

Jech _____

Kidd _____

Kirt _____

Matthews _____

Montgomery _____

Newhouse _____

Pederson _____

Pemberton _____

Rader _____

Rosino _____

Simpson _____

Weaver _____

Thompson _____

House Action _____ Date _____ Senate Action _____ Date _____

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 3196

By: Williams of the House

and

Daniels of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to fees and fines and courts;
enacting the Burt Holmes Fee Structure Policy Act of
2022; amending 19 O.S. 2021, Section 138.5; amending
19 O.S. 2021, Section 339.7; amending 20 O.S. 2021,
Section 1313.2; amending 21 O.S. 2021, Section 1220;
amending 22 O.S. 2021, Sections 471.6, 979a, 982,
991a, 1105.2, and 1355A; amending 28 O.S. 2021,
Section 153; amending 29 O.S. 2021, Section 9-114;
amending 47 O.S. 2021, Sections 11-705, 11-801e, 11-
902, 11-1112, 17-101, and 17-102; amending 63 O.S.
2021, Sections 2-401, 2-402, 2-404, 2-405, 2-406, 2-
407, 2-407.1, 2-415, and 2-902; eliminating fees,
fines, and costs; defining terms; creating the Office
of Judicial Performance Evaluation; providing purpose
of Office; creating Board of Judicial Performance
Evaluation; stating purpose of Board; providing for
terms of office for members of the Board of Judicial
Performance Evaluation; imposing certain conditions
with respect to membership; providing for payment to
members of the Board of Judicial Performance
Evaluation; providing for travel reimbursement;
requiring approval for expenses of the Office of
Judicial Performance Evaluation; providing certain
meetings of the Board of Judicial Performance
Evaluation confidential and exempt from Oklahoma Open
Meeting Act; providing for confidentiality of certain
information and exempt from Oklahoma Open Records

1 Act; creating Administrator position; prescribing
2 duties of Administrator; prescribing duties and
3 powers of Office of Judicial Performance Evaluation;
4 prescribing criteria for judicial performance
5 evaluations; requiring initial evaluations; requiring
6 interim evaluations; allowing response from Justice
7 or judge; requiring performance evaluations be shared
8 with certain persons; requiring election-year
9 evaluations; prescribing content of narratives;
10 allowing response from Justice or judge; requiring
11 performance evaluations be shared with certain
12 persons; authorizing improvement plans; prescribing
13 process; prescribing procedures based upon failure to
14 complete plan; providing for disclosure of certain
15 conflicts of interest; providing recusal process for
16 certain persons; requiring information be kept
17 confidential; prescribing Board of Judicial
18 Performance Evaluation duties and powers; authorizing
19 promulgation of rules; providing for noncodification;
20 providing for codification; and providing effective
21 dates.

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

SECTION 1. NEW LAW A new section of law not to be
codified in the Oklahoma Statutes reads as follows:

Sections 2 through 27 of this act shall be known and may be
cited as the "Burt Holmes Fee Structure Policy Act of 2022".

SECTION 2. AMENDATORY 19 O.S. 2021, Section 138.5, is
amended to read as follows:

Section 138.5 A. It shall be the duty of the office of the
county indigent defender to represent as counsel anyone who appears
for arraignment without aid of counsel, and who has been informed by
the judge that it is his right to have counsel, and who desires

1 counsel, but is unable to employ such aid; and upon order of a
2 district judge of such county he shall investigate any matter
3 pending before the judge and report to him in the manner prescribed
4 by the judge.

5 B. When a defendant or, if applicable, his parent or legal
6 guardian requests representation by the county indigent defender,
7 such person shall submit an appropriate application, the form of
8 which shall state that such application is signed under oath and
9 under the penalty of perjury and that a false statement may be
10 prosecuted as such. The application shall state whether or not the
11 defendant has been released on bond. In addition, if the defendant
12 has been released on bond, the application shall include a written
13 statement from the applicant that he or she has contacted three (3)
14 attorneys, licensed to practice law in this state, and the applicant
15 has been unable to obtain legal counsel. ~~A nonrefundable~~
16 ~~application fee of Fifteen Dollars (\$15.00) shall be paid to the~~
17 ~~court clerk at the time the application is submitted, and no~~
18 ~~application shall be accepted without payment of the fee; except~~
19 ~~that the court may, based upon the financial information submitted,~~
20 ~~waive the fee, if the person is in custody or if the court~~
21 ~~determines that the person does not have the financial resources to~~
22 ~~pay the fee. Any fee collected pursuant to this subsection shall be~~
23 ~~retained by the court clerk as an administrative fee and deposited~~
24 ~~in the court fund.~~ Before the court appoints the county indigent

1 defender based on the application, the court shall advise the
2 defendant or, if applicable, his or her parent or legal guardian
3 that the application is signed under oath and under the penalty of
4 perjury. A copy of the application shall be sent to the prosecuting
5 attorney or the Office of the Attorney General, whichever is
6 appropriate, for review, and, upon request, the court shall hold a
7 hearing on the issue of the eligibility for appointment of the
8 county indigent defender.

9 C. If the defendant is admitted to bail and the defendant or
10 another person on behalf of the defendant posts a bond, other than
11 by personal recognizance, the court may consider such fact in
12 determining the eligibility of the defendant for appointment of the
13 county indigent defender; provided, however, such consideration
14 shall not be the sole factor in the determination of eligibility.

15 SECTION 3. AMENDATORY 20 O.S. 2021, Section 1313.2, is
16 amended to read as follows:

17 Section 1313.2 A. As used in this section:

18 1. "Arrested" means taking custody of another for the purpose
19 of holding or detaining him or her to answer a criminal charge;

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

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

1 4. "DNA" means Deoxyribonucleic acid.

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

10 ~~C.~~ 1. Any person convicted of any misdemeanor or felony
11 offense shall pay a Laboratory Analysis Fee in the amount of One
12 Hundred Fifty Dollars (\$150.00) for each offense if forensic science
13 or laboratory services are rendered or administered by the Oklahoma
14 State Bureau of Investigation (OSBI), by the Toxicology Laboratory
15 of the Office of the Chief Medical Examiner or by any municipality
16 or county in connection with the case. This fee shall be in
17 addition to and not a substitution for any and all fines and
18 penalties otherwise provided for by law for this offense.

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

- 23 a. the OSBI who shall deposit the monies into the OSBI
24 Revolving Fund provided for in Section 150.19a of

1 Title 74 of the Oklahoma Statutes for services
2 rendered or administered by the OSBI,

3 b. the Office of the Chief Medical Examiner who shall
4 deposit the monies into the Chief Medical Examiner
5 Revolving Fund provided for in Section 948 of Title 63
6 of the Oklahoma Statutes for services rendered or
7 administered by the Office of the Chief Medical
8 Examiner, or

9 c. the appropriate municipality or county for services
10 rendered or administered by a municipality or county.

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

- 13 a. providing criminalistic laboratory services,
14 b. the purchase and maintenance of equipment for use by
15 the laboratory in performing analysis,
16 c. education, training, and scientific development of
17 OSBI personnel, and
18 d. the destruction of seized property and chemicals as
19 prescribed in Sections 2-505 and 2-508 of Title 63 of
20 the Oklahoma Statutes.

21 ~~D.~~ C. Upon conviction or bond forfeiture, the court shall
22 collect the fee provided for in subsection B of this section and
23 deposit it in an account created for that purpose. Except as
24 otherwise provided in subsection ~~E~~ D of this section, monies shall

1 be forwarded monthly by the court clerk to the Council on Law
2 Enforcement Education and Training (CLEET). Beginning July 1, 2003,
3 deposits shall be due on the fifteenth day of each month for the
4 preceding calendar month. There shall be a late fee imposed for
5 failure to make timely deposits; provided, CLEET, in its discretion,
6 may waive all or part of the late fee. Such late fee shall be one
7 percent (1%) of the principal amount due per day beginning from the
8 tenth day after payment is due and accumulating until the late fee
9 reaches one hundred percent (100%) of the principal amount due.
10 Beginning on July 1, 1987, ninety percent (90%) of the monies
11 received by CLEET from the court clerks pursuant to this section
12 shall be deposited in the CLEET Fund, and ten percent (10%) shall be
13 deposited in the General Revenue Fund. Beginning January 1, 2001,
14 sixty and fifty-three one-hundredths percent (60.53%) of the monies
15 received by CLEET from the court clerks pursuant to this section
16 shall be deposited in the CLEET Fund created pursuant to subsection
17 G E of this section, five and eighty-three one-hundredths percent
18 (5.83%) shall be deposited in the General Revenue Fund and thirty-
19 three and sixty-four one-hundredths percent (33.64%) shall be
20 deposited in the CLEET Training Center Revolving Fund created
21 pursuant to Section 3311.6 of Title 70 of the Oklahoma Statutes.
22 Along with the deposits required by this subsection, each court
23 shall also submit a report stating the total amount of funds
24 collected and the total number of fees imposed during the preceding

1 quarter. The report may be made on computerized or manual
2 disposition reports.

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

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

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

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

10 ~~H.~~ F. 1. Any person arrested or convicted of a felony offense
11 or convicted of a misdemeanor offense of assault and battery,
12 domestic abuse, stalking, possession of a controlled substance
13 prohibited under Schedule IV of the Uniform Controlled Dangerous
14 Substances Act, outraging public decency, resisting arrest, escaping
15 or 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 shall pay a DNA fee of
20 One Hundred Fifty Dollars (\$150.00). This fee shall not be
21 collected if the person has a valid DNA sample in the OSBI DNA
22 Offender Database at the time of sentencing.

23 2. The court clerk shall cause to be deposited the amount of
24 One Hundred Fifty Dollars (\$150.00) as collected for every felony

1 arrest, felony conviction or every conviction for a misdemeanor
2 offense of assault and battery, domestic abuse, stalking, possession
3 of a controlled substance prohibited under the Uniform Controlled
4 Dangerous Substances Act, outraging public decency, resisting
5 arrest, escaping or attempting to escape, eluding a police officer,
6 Peeping Tom, pointing a firearm, threatening an act of violence,
7 breaking and entering a dwelling place, destruction of property,
8 negligent homicide or causing a personal injury accident while
9 driving under the influence of any intoxicating substance as
10 described in this subsection. The court clerk shall remit the
11 monies in the fund on a monthly basis directly to the OSBI who shall
12 deposit the monies into the OSBI Revolving Fund provided for in
13 Section 150.19a of Title 74 of the Oklahoma Statutes for services
14 rendered or administered by the OSBI.

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

19 ~~F.~~ G. It shall be the responsibility of the court clerk to
20 account for and ensure the correctness and accuracy of payments made
21 to the state agencies identified in Sections 1313.2 through 1313.4
22 of this title. Payments made directly to an agency by the court
23 clerk as a result of different types of assessments and fees
24

1 pursuant to Sections 1313.2 through 1313.4 of this title shall be
2 made monthly to each state agency.

3 SECTION 4. AMENDATORY 21 O.S. 2021, Section 1220, is
4 amended to read as follows:

5 Section 1220. A. Except as provided in subsection ~~E~~ B of this
6 section, it shall be unlawful for any operator to knowingly
7 transport or for any passenger to possess in any moving vehicle upon
8 a public highway, street or alley any intoxicating beverage or low-
9 point beer, as defined by Sections 163.1 and 163.2 of Title 37 of
10 the Oklahoma Statutes, except in the original container which shall
11 not have been opened and from which the original cap or seal shall
12 not have been removed, unless the opened container be in the rear
13 trunk or rear compartment, which shall include the spare tire
14 compartment in a station wagon or panel truck, or any outside
15 compartment which is not accessible to the driver or any other
16 person in the vehicle while it is in motion. Any person violating
17 the provisions of this section shall be deemed guilty of a
18 misdemeanor, and upon conviction shall be punished as provided in
19 subsection A of Section 566 of Title 37 of the Oklahoma Statutes.

20 B. ~~Any person convicted of violating any provision of~~
21 ~~subsection A of this section shall, in addition to any fine imposed,~~
22 ~~pay a special assessment trauma care fee of One Hundred Dollars~~
23 ~~(\$100.00) to be deposited into the Trauma Care Assistance Revolving~~
24 ~~Fund created in Section 1-2522 of Title 63 of the Oklahoma Statutes.~~

1 ~~C.~~ The provisions of subsection A of this section shall not
2 apply to the passenger area of buses and limousines; however, it
3 shall be unlawful for the driver of the bus or limousine to consume
4 or have in the driver's immediate possession any intoxicating
5 beverage or low-point beer.

6 ~~D.~~ C. No city, town, or county may adopt any order, ordinance,
7 rule or regulation concerning the consumption or serving of
8 intoxicating beverages or low-point beer in buses or limousines.

9 ~~E.~~ D. As used in this section:

10 1. "Bus" means a vehicle as defined in Section 1-105 of Title
11 47 of the Oklahoma Statutes chartered for transportation of persons
12 for hire. It shall not mean a school bus, as defined by Section 1-
13 160 of Title 47 of the Oklahoma Statutes, transporting children or a
14 vehicle operated pursuant to a franchise with a city or town
15 operating over a regularly scheduled route; and

16 2. "Limousine" means a chauffeur-driven motor vehicle, other
17 than a bus or taxicab, as defined by Section 1-174 of Title 47 of
18 the Oklahoma Statutes, designed and used for transportation of
19 persons for compensation.

20 SECTION 5. AMENDATORY 22 O.S. 2021, Section 471.6, is
21 amended to read as follows:

22 Section 471.6 A. The drug court judge shall conduct a hearing
23 as required by subsection E of Section 471.4 of this title to
24 determine final eligibility by considering:

1 1. Whether the offender voluntarily consents to the program
2 requirements;

3 2. Whether to accept the offender based upon the findings and
4 recommendations of the drug court investigation authorized by
5 Section 471.4 of this title;

6 3. Whether there is a written plea agreement, and if so,
7 whether the terms and conditions of the written negotiated plea
8 between the district attorney, the defense attorney and the offender
9 are appropriate and consistent with the penalty provisions and
10 conditions of other similar cases;

11 4. Whether there is an appropriate treatment program available
12 to the offender and whether there is a recommended treatment plan;
13 and

14 5. Any information relevant to determining eligibility;
15 provided, however, an offender shall not be denied admittance to any
16 drug court program based upon an inability to pay court costs or
17 other costs or fees.

18 B. At the hearing to determine final eligibility for the drug
19 court program, the judge shall not grant any admission of any
20 offender to the program when:

21 1. The required treatment plan and plea agreement have not been
22 completed;

23 2. The program funding or availability of treatment has been
24 exhausted;

1 3. The treatment program is unwilling to accept the offender;

2 4. The offender was ineligible for consideration by the nature
3 of a violent offense at the time of arrest, and the charge has been
4 modified to meet the eligibility criteria of the program; or

5 5. The offender is inappropriate for admission to the program,
6 in the discretion of the judge.

7 C. At the final eligibility hearing, if evidence is presented
8 that was not discovered by the drug court investigation, the
9 district attorney or the defense attorney may make an objection and
10 may ask the court to withdraw the plea agreement previously
11 negotiated. The court shall determine whether to proceed and
12 overrule the objection, to sustain the objection and transfer the
13 case for traditional criminal prosecution or to require further
14 negotiations of the plea or punishment provisions. The decision of
15 the judge for or against eligibility and admission shall be final.

16 D. When the court accepts the treatment plan with the written
17 plea agreement, the offender, upon entering the plea as agreed by
18 the parties, shall be ordered and escorted immediately into the
19 program. The offender must have voluntarily signed the necessary
20 court documents before the offender may be admitted to treatment.
21 The court documents shall include:

22 1. Waiver of the offender's rights to speedy trial;

23 2. A written plea agreement which sets forth the offense
24 charged, the penalty to be imposed for the offense in the event of a

1 breach of the agreement and the penalty to be imposed, if any, in
2 the event of a successful completion of the treatment program;
3 provided, however, incarceration shall be prohibited when the
4 offender completes the treatment program;

5 3. A written treatment plan which is subject to modification at
6 any time during the program; and

7 4. A written performance contract requiring the offender to
8 enter the treatment program as directed by the court and participate
9 until completion, withdrawal or removal by the court.

10 E. If admission into the drug court program is denied, the
11 criminal case shall be returned to the traditional criminal docket
12 and shall proceed as provided for any other criminal case.

13 F. At the time an offender is admitted to the drug court
14 program, any bail or undertaking on behalf of the offender shall be
15 exonerated.

16 G. The period of time during which an offender may participate
17 in the active treatment portion of the drug court program shall be
18 not less than six (6) months nor more than twenty-four (24) months
19 and may include a period of supervision not less than six (6) months
20 nor more than one (1) year following the treatment portion of the
21 program. The period of supervision may be extended by order of the
22 court for not more than six (6) months. No treatment dollars shall
23 be expended on the offender during the extended period of
24 supervision. If the court orders that the period of supervision

1 shall be extended, the drug court judge, district attorney, the
2 attorney for the offender and the supervising staff for the drug
3 court program shall evaluate the appropriateness of continued
4 supervision on a quarterly basis. All participating treatment
5 providers shall be certified by the Department of Mental Health and
6 Substance Abuse Services and shall be selected and evaluated for
7 performance-based effectiveness annually by the Department of Mental
8 Health and Substance Abuse Services. Treatment programs shall be
9 designed to be completed within twelve (12) months and shall have
10 relapse prevention and evaluation components.

11 H. The drug court judge shall order the offender to pay court
12 costs, treatment costs, and drug testing costs, ~~a program user fee~~
13 ~~not to exceed Twenty Dollars (\$20.00) per month and necessary~~
14 ~~supervision fees,~~ unless the offender is indigent. The drug court
15 judge shall establish a schedule for the payment of costs and fees.
16 The cost for treatment, drug testing and supervision shall be set by
17 the treatment and supervision providers respectively and made part
18 of the court's order for payment. User fees shall be set by the
19 drug court judge within the maximum amount authorized by this
20 subsection and payable directly to the court clerk for the benefit
21 and administration of the drug court program. Treatment, drug
22 testing and supervision costs shall be paid to the respective
23 providers. The court clerk shall collect all other costs and fees
24 ordered and deposit such costs and fees with the county treasurer in

1 a drug court fund created and administered pursuant to subsection I
2 of Section 471.1 of this title. The remaining user fees shall be
3 remitted to the State Treasurer by the court clerk for deposit in
4 the Department of Mental Health and Substance Abuse Services' Drug
5 Abuse Education and Treatment Revolving Fund established pursuant to
6 Section 2-503.2 of Title 63 of the Oklahoma Statutes. Court orders
7 for costs and fees pursuant to this subsection shall not be limited
8 for purposes of collection to the maximum term of imprisonment for
9 which the offender could have been imprisoned for the offense, nor
10 shall any court order for costs and fees be limited by any term of
11 probation, parole, supervision, treatment or extension thereof.
12 Court orders for costs and fees shall remain an obligation of the
13 offender until fully paid; provided, however, once the offender has
14 successfully completed the drug court program, the drug court judge
15 shall have the discretion to expressly waive all or part of the
16 costs and fees provided for in this subsection if, in the opinion of
17 the drug court judge, continued payment of the costs and fees by the
18 offender would create a financial hardship for the offender.
19 Offenders who have not fully paid all costs and fees pursuant to
20 court order but who have otherwise successfully completed the drug
21 court program shall not be counted as an active drug court
22 participant for purposes of drug court contracts or program
23 participant numbers.

1 I. Notwithstanding any other provision of law, if the driving
2 privileges of the offender have been suspended, revoked, canceled or
3 denied by the Department of Public Safety and if the drug court
4 judge determines that no other means of transportation for the
5 offender is available, the drug court judge may enter a written
6 order requiring the Department of Public Safety to stay any and all
7 such actions against the Class D driving privileges of the offender;
8 provided, the stay shall not be construed to grant driving
9 privileges to an offender who has not been issued a driver license
10 by the Department or whose Oklahoma driver license has expired, in
11 which case the offender shall be required to apply for and be found
12 eligible for a driver license, pass all examinations, if applicable,
13 and pay all statutory driver license issuance or renewal fees. The
14 offender shall provide proof of insurance to the drug court judge
15 prior to the judge ordering a stay of any driver license suspension,
16 revocation, cancellation or denial. When a judge of a drug court
17 enters a stay against an order by the Department of Public Safety
18 suspending or revoking the driving privileges of an offender, the
19 time period set in the order by the Department for the suspension or
20 revocation shall continue to run during the stay. When an offender
21 has successfully completed the drug court program, the drug court
22 judge shall maintain jurisdiction over the offender's driving
23 privileges for one (1) year after the date on which the offender
24 graduates from the drug court program.

SECTION 6. AMENDATORY 22 O.S. 2021, Section 979a, is amended to read as follows:

Section 979a. A. The court shall require a person who is actually received into custody at a jail facility or who is confined in a city or county jail or holding facility, for any offense, to pay the jail facility or holding facility the costs of incarceration, both before and after conviction, upon conviction or receiving a deferred sentence. The costs of incarceration shall be collected by the clerk of the court as provided for collection of other costs and fines, which shall be subject to review under the procedures set forth in Section VIII of the Rules of the Oklahoma Court of Criminal Appeals, Chapter 18, Appendix of this title. Costs of incarceration shall include booking, receiving and processing out, housing, food, clothing, medical care, dental care, and psychiatric services. The costs for incarceration shall be an amount equal to the actual cost of the services and shall be determined by the chief of police for city jails and holding facilities, by the county sheriff for county jails or by contract amount, if applicable. In the event a person requires emergency medical treatment for an injury or condition that threatens life or threatens the loss or use of a limb prior to being actually received into the custody of any jail facility, the provisions of Section 533 of Title 21 of the Oklahoma Statutes shall apply to taking custody, medical care and cost responsibility. The cost of incarceration

1 shall be paid by the court clerk, when collected, to the
2 municipality, holding facility, county or other public entity
3 responsible for the operation of such facility where the person was
4 held at any time. ~~Except for medical costs, ten percent (10%) of~~
5 ~~any amount collected by the court clerk shall be paid to the~~
6 ~~municipal attorney's or district attorney's office, and the~~
7 ~~remaining amount shall be paid to the municipality, the sheriff's~~
8 ~~service fee account or, if the sheriff does not operate the jail~~
9 ~~facility, the remaining amount shall be deposited with the public~~
10 ~~entity responsible for the operation of the jail facility where the~~
11 ~~person was held at any time.~~ The court shall order the defendant to
12 reimburse all actual costs of incarceration, upon conviction or upon
13 entry of a deferred judgment and sentence unless the defendant is a
14 mentally ill person as defined by Section 1-103 of Title 43A of the
15 Oklahoma Statutes. The sheriff shall give notice to the defendant
16 of the actual costs owed before any court-ordered costs are
17 collected. The defendant shall have an opportunity to object to the
18 amount of costs solely on the grounds that the number of days served
19 is incorrect. If no objection is made, the costs may be collected
20 in the amount stated in the notice to the defendant. The sheriff,
21 municipality or other public entity responsible for the operation of
22 the jail may collect costs of incarceration ordered by the court
23 from the jail account of the inmate. If the funds collected from
24 the jail account of the inmate are insufficient to satisfy the

1 actual incarceration costs ordered by the court, the sheriff,
2 municipality or other public entity responsible for the operation of
3 the jail is authorized to collect the remaining balance of the
4 incarceration costs by civil action. When the sheriff, municipality
5 or other public entity responsible for the operation of the jail
6 collects any court-ordered incarceration costs from the jail account
7 of the inmate or by criminal or civil action, the court clerk shall
8 be notified of the amount collected.

9 B. Except as may otherwise be provided in Section 533 of Title
10 21 of the Oklahoma Statutes, any offender receiving routine or
11 emergency medical services or medications or injured during the
12 commission of a felony or misdemeanor offense and administered any
13 medical care shall be required to reimburse the sheriff,
14 municipality or other public entity responsible for the operation of
15 the jail, the full amount paid by the sheriff, municipality or other
16 public entity responsible for the operation of the jail for any
17 medical care or treatment administered to such offender during any
18 period of incarceration or when the person was actually received
19 into custody for any reason in that jail facility. The sheriff,
20 municipality or other public entity responsible for the operation of
21 the jail may deduct the costs of medical care and treatment as
22 authorized by Section 531 of Title 19 of the Oklahoma Statutes. If
23 the funds collected from the jail account of the inmate are
24 insufficient to satisfy the actual medical costs paid, the sheriff,

1 municipality or other public entity responsible for the operation of
2 the jail shall be authorized to collect the remaining balance of the
3 medical care and treatment by civil actions.

4 C. Costs of incarceration shall be a debt of the inmate owed to
5 the municipality, county, or other public entity responsible for the
6 operation of the jail and may be collected as provided by law for
7 collection of any other civil debt or criminal penalty.

8 D. The court shall not waive the costs of incarceration in
9 their entirety. However, if the court determines that a reduction
10 in the fine, costs, and costs of incarceration is warranted, the
11 court shall equally apply the same percentage reduction to the fine,
12 costs, and costs of incarceration owed by the defendant.

13 SECTION 7. AMENDATORY 22 O.S. 2021, Section 982, is
14 amended to read as follows:

15 Section 982. A. Whenever a person is convicted of a violent
16 felony offense whether the conviction is for a single offense or
17 part of any combination of offenses, except when the death sentence
18 is available as punishment for the offense, the court may, before
19 imposing the sentence, require a presentence investigation be made
20 of the offender by the Department of Corrections. ~~The court shall~~
21 ~~order the defendant to pay a fee to the Department of Corrections of~~
22 ~~not less than Fifty Dollars (\$50.00) nor more than Five Hundred~~
23 ~~Dollars (\$500.00) for the presentence investigation. In hardship~~
24

1 ~~cases, the court may reduce the amount of the fee and establish a~~
2 ~~payment schedule.~~

3 B. Whenever a person has a prior felony conviction and enters a
4 plea of guilty or nolo contendere to a felony offense other than a
5 violent felony offense, without an agreement by the district
6 attorney regarding the sentence to be imposed, the court may order a
7 presentence investigation be made by the Department of Corrections.
8 ~~The fee provided in subsection A of this section shall apply to~~
9 ~~persons subject to this subsection.~~

10 C. Whenever a person has entered a plea of not guilty to a
11 nonviolent felony offense and is found guilty by a court following a
12 non-jury trial, the court may require a presentence investigation be
13 made by the Department of Corrections. ~~The fee provided in~~
14 ~~subsection A of this section shall apply to persons subject to this~~
15 ~~subsection.~~

16 D. When conducting a presentence investigation, the Department
17 shall inquire into the circumstances of the offense and the
18 characteristics of the offender. The information obtained from the
19 investigation shall include, but not be limited to, a voluntary
20 statement from each victim of the offense concerning the nature of
21 the offense and the impact of the offense on the victim and the
22 immediate family of the victim, the amount of the loss suffered or
23 incurred by the victim as a result of the criminal conduct of the
24 offender, and the age, marital status, living arrangements,

1 financial obligations, income, family history and education, prior
2 juvenile and criminal records, associations with other persons
3 convicted of a felony offense, social history, indications of a
4 predisposition to violence or substance abuse, remorse or guilt
5 about the offense or the harm to the victim, job skills and
6 employment history of the offender. The Department shall make a
7 report of information from such investigation to the court,
8 including a recommendation detailing the punishment which is deemed
9 appropriate for both the offense and the offender, and specifically
10 a recommendation for or against probation or suspended sentence.
11 The report of the investigation shall be presented to the judge
12 within a reasonable time, and upon failure to present the report,
13 the judge may proceed with sentencing. Whenever, in the opinion of
14 the court or the Department, it is desirable, the investigation
15 shall include a physical and mental examination or either a physical
16 or mental examination of the offender.

17 E. The district attorney may have a presentence investigation
18 made by the Department on each person charged with a violent felony
19 offense and entering a plea of guilty or a plea of nolo contendere
20 as part of or in exchange for a plea agreement for a violent felony
21 offense. The presentence investigation shall be completed before
22 the terms of the plea agreement are finalized. The court shall not
23 approve the terms of any plea agreement without reviewing the
24 presentence investigation report to determine whether or not the

1 terms of the sentence are appropriate for both the offender and the
2 offense. ~~The fee provided in subsection A of this section shall~~
3 ~~apply to persons subject to this subsection and shall be a condition~~
4 ~~of the plea agreement and sentence.~~

5 F. The presentence investigation reports specified in this
6 section shall not be referred to, or be considered, in any appeal
7 proceedings. Before imposing a sentence, the court shall advise the
8 defendant, counsel for the defendant, and the district attorney of
9 the factual contents and conclusions of the presentence
10 investigation report. The court shall afford the offender a fair
11 opportunity to controvert the findings and conclusions of the
12 reports at the time of sentencing. If either the defendant or the
13 district attorney desires, a hearing shall be set by the court to
14 allow both parties an opportunity to offer evidence proving or
15 disproving any finding contained in a report, which shall be a
16 hearing in mitigation or aggravation of punishment.

17 G. The required presentence investigation and report may be
18 waived upon written waiver by the district attorney and the
19 defendant and upon approval by the Court.

20 H. As used in this section, "violent felony offense" means:

21 1. Arson in the first degree;

22 2. Assault with a dangerous weapon, battery with a dangerous
23 weapon or assault and battery with a dangerous weapon;

1 3. Aggravated assault and battery on a police officer, sheriff,
2 highway patrol officer, or any other officer of the law;

3 4. Assault with intent to kill, or shooting with intent to
4 kill;

5 5. Assault with intent to commit a felony, or use of a firearm
6 to commit a felony;

7 6. Assault while masked or disguised;

8 7. Burglary in the first degree or burglary with explosives;

9 8. Child beating or maiming;

10 9. Forcible sodomy;

11 10. Kidnapping, or kidnapping for extortion;

12 11. Lewd or indecent proposition or lewd or indecent acts with
13 a child;

14 12. Manslaughter in the first or second degrees;

15 13. Murder in the first or second degrees;

16 14. Rape in the first or second degrees, or rape by
17 instrumentation;

18 15. Robbery in the first or second degrees, or robbery by two
19 or more persons, or robbery with a dangerous weapon; or

20 16. Any attempt, solicitation or conspiracy to commit any of
21 the above enumerated offenses.

22 SECTION 8. AMENDATORY 22 O.S. 2021, Section 991a, is
23 amended to read as follows:

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

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

9 a. to provide restitution to the victim as provided by
10 Section 991f et seq. of this title or according to a
11 schedule of payments established by the sentencing
12 court, together with interest upon any pecuniary sum
13 at the rate of twelve percent (12%) per annum, if the
14 defendant agrees to pay such restitution or, in the
15 opinion of the court, if the defendant is able to pay
16 such restitution without imposing manifest hardship on
17 the defendant or the immediate family and if the
18 extent of the damage to the victim is determinable
19 with reasonable certainty,

20 b. to reimburse any state agency for amounts paid by the
21 state agency for hospital and medical expenses
22 incurred by the victim or victims, as a result of the
23 criminal act for which such person was convicted,
24 which reimbursement shall be made directly to the

- 1 state agency, with interest accruing thereon at the
2 rate of twelve percent (12%) per annum,
- 3 c. to engage in a term of community service without
4 compensation, according to a schedule consistent with
5 the employment and family responsibilities of the
6 person convicted,
- 7 d. to pay a reasonable sum into any trust fund,
8 established pursuant to the provisions of Sections 176
9 through 180.4 of Title 60 of the Oklahoma Statutes,
10 and which provides restitution payments by convicted
11 defendants to victims of crimes committed within this
12 state wherein such victim has incurred a financial
13 loss,
- 14 e. to confinement in the county jail for a period not to
15 exceed six (6) months,
- 16 f. to confinement as provided by law together with a term
17 of post-imprisonment community supervision for not
18 less than three (3) years of the total term allowed by
19 law for imprisonment, with or without restitution;
20 provided, however, the authority of this provision is
21 limited to Section 843.5 of Title 21 of the Oklahoma
22 Statutes when the offense involved sexual abuse or
23 sexual exploitation; Sections 681, 741 and 843.1 of
24 Title 21 of the Oklahoma Statutes when the offense

involved sexual abuse or sexual exploitation; and
Sections 865 et seq., 885, 886, 888, 891, 1021,
1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and
1123 of Title 21 of the Oklahoma Statutes,

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

1 this state. The "Oklahoma Reward System" means the
2 reward program established by Section 150.18 of Title
3 74 of the Oklahoma Statutes,

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

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

1 deposited in the OSBI Revolving Fund established by
2 Section 150.19a of Title 74 of the Oklahoma Statutes
3 or to the general fund wherein the other law
4 enforcement agency is located,

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

9 k. to reimburse the court fund for amounts paid to court-
10 appointed attorneys for representing the defendant in
11 the case in which the person is being sentenced,

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

21 m. to be placed in a victims impact panel program, as
22 defined in subsection H of this section, or
23 victim/offender reconciliation program and payment of
24 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 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

1 the Department of Public Safety. Upon the expiration
2 of the period for the restriction, the Department of
3 Public Safety shall remove the restriction without
4 further court order. Failure to comply with the order
5 to install an ignition interlock device or operating
6 any vehicle without a device during the period of
7 restriction shall be a violation of the sentence and
8 may be punished as deemed proper by the sentencing
9 court. As used in this paragraph, "ignition interlock
10 device" means a device that, without tampering or
11 intervention by another person, would prevent the
12 defendant from operating a motor vehicle if the
13 defendant has a blood or breath alcohol concentration
14 of two-hundredths (0.02) or greater,

- 15 o. to be confined by electronic monitoring administered
16 and supervised by the Department of Corrections or a
17 community sentence provider, ~~and payment of a~~
18 ~~monitoring fee to the supervising authority, not to~~
19 ~~exceed Three Hundred Dollars (\$300.00) per month. Any~~
20 ~~fees collected pursuant to this paragraph shall be~~
21 ~~deposited with the appropriate supervising authority.~~
22 ~~Any willful violation of an order of the court for the~~
23 ~~payment of the monitoring fee shall be a violation of~~
24 ~~the sentence and may be punished as deemed proper by~~

1 ~~the sentencing court.~~ As used in this paragraph,
2 "electronic monitoring" means confinement of the
3 defendant within a specified location or locations
4 with supervision by means of an electronic device
5 approved by the Department of Corrections which is
6 designed to detect if the defendant is in the court-
7 ordered location at the required times and which
8 records violations for investigation by a qualified
9 supervisory agency or person,

10 p. to perform one or more courses of treatment, education
11 or rehabilitation for any conditions, behaviors,
12 deficiencies or disorders which may contribute to
13 criminal conduct, including but not limited to alcohol
14 and substance abuse, mental health, emotional health,
15 physical health, propensity for violence, antisocial
16 behavior, personality or attitudes, deviant sexual
17 behavior, child development, parenting assistance, job
18 skills, vocational-technical skills, domestic
19 relations, literacy, education, or any other
20 identifiable deficiency which may be treated
21 appropriately in the community and for which a
22 certified provider or a program recognized by the
23 court as having significant positive impact exists in
24 the community. Any treatment, education or

- 1 rehabilitation provider required to be certified
2 pursuant to law or rule shall be certified by the
3 appropriate state agency or a national organization,
- 4 q. to submit to periodic testing for alcohol,
5 intoxicating substance, or controlled dangerous
6 substances by a qualified laboratory,
- 7 r. to pay a fee, costs for treatment, education,
8 supervision, participation in a program, or any
9 combination thereof as determined by the court, based
10 upon the defendant's ability to pay the fees or costs,
- 11 s. to be supervised by a Department of Corrections
12 employee, a private supervision provider, or other
13 person designated by the court,
- 14 t. to obtain positive behavior modeling by a trained
15 mentor,
- 16 u. to serve a term of confinement in a restrictive
17 housing facility available in the community,
- 18 v. to serve a term of confinement in the county jail at
19 night or during weekends pursuant to Section 991a-2 of
20 this title or for work release,
- 21 w. to obtain employment or participate in employment-
22 related activities,
- 23 x. to participate in mandatory day reporting to
24 facilities or persons for services, payments, duties

1 or person-to-person contacts as specified by the
2 court,

3 y. to pay day fines not to exceed fifty percent (50%) of
4 the net wages earned. For purposes of this paragraph,
5 "day fine" means the offender is ordered to pay an
6 amount calculated as a percentage of net daily wages
7 earned. The day fine shall be paid to the local
8 community sentencing system as reparation to the
9 community. Day fines shall be used to support the
10 local system,

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

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

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

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

1 dd. in the case of a person convicted of prostitution
2 pursuant to Section 1029 of Title 21 of the Oklahoma
3 Statutes, require such person to receive counseling
4 for the behavior which may have caused such person to
5 engage in prostitution activities. Such person may be
6 required to receive counseling in areas including but
7 not limited to alcohol and substance abuse, sexual
8 behavior problems, or domestic abuse or child abuse
9 problems,

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

1 supervision. The examination shall be administered by
2 a certified licensed polygraph examiner. The
3 treatment program must be approved by the Department
4 of Corrections or the Department of Mental Health and
5 Substance Abuse Services. Such treatment shall be at
6 the expense of the defendant based on the defendant's
7 ability to pay,

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

17 gg. in the case of a person convicted of any false or
18 bogus check violation, as defined in Section 1541.4 of
19 Title 21 of the Oklahoma Statutes, impose a fee of
20 Twenty-five Dollars (\$25.00) to the victim for each
21 check, and impose a bogus check fee to be paid to the
22 district attorney. The bogus check fee paid to the
23 district attorney shall be equal to the amount
24 assessed as court costs plus Twenty-five Dollars

1 (\$25.00) for each check upon filing of the case in
2 district court. This money shall be deposited in the
3 Bogus Check Restitution Program Fund as established in
4 subsection B of Section 114 of this title.

5 Additionally, the court may require the offender to
6 pay restitution and bogus check fees on any other
7 bogus check or checks that have been submitted to the
8 District Attorney Bogus Check Restitution Program,

9 hh. in the case of a person being sentenced for a
10 conviction for a violation of Section 644 of Title 21
11 of the Oklahoma Statutes, require the person to
12 receive an assessment for batterers, which shall be
13 conducted through a certified treatment program for
14 batterers, and

15 ii. any other provision specifically ordered by the court.

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

21 However, unless under the supervision of the district attorney,
22 the offender shall be required to pay Forty Dollars (\$40.00) per
23 month to the district attorney during the first two (2) years of
24 probation to compensate the district attorney for the costs incurred

1 during the prosecution of the offender and for the additional work
2 of verifying the compliance of the offender with the rules and
3 conditions of his or her probation. The district attorney may waive
4 any part of this requirement in the best interests of justice. Any
5 fees collected by the district attorney pursuant to this paragraph
6 shall be deposited in the General Revenue Fund of the State
7 Treasury. The court shall not waive, suspend, defer or dismiss the
8 costs of prosecution in its entirety. However, if the court
9 determines that a reduction in the fine, costs and costs of
10 prosecution is warranted, the court shall equally apply the same
11 percentage reduction to the fine, costs and costs of prosecution
12 owed by the offender;

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

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

19 4. Order the defendant to reimburse the Oklahoma State Bureau
20 of Investigation for costs incurred by that agency during its
21 investigation of the crime for which the defendant pleaded guilty,
22 nolo contendere or was convicted, including compensation for
23 laboratory, technical, or investigation services performed by the
24 Bureau if, in the opinion of the court, the defendant is able to pay

1 without imposing manifest hardship on the defendant, and if the
2 costs incurred by the Bureau during the investigation of the
3 defendant's case may be determined with reasonable certainty;

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

14 6. In addition to the other sentencing powers of the court, in
15 the case of a person convicted of operating or being in control of a
16 motor vehicle while the person was under the influence of alcohol,
17 other intoxicating substance, or a combination of alcohol or another
18 intoxicating substance, or convicted of operating a motor vehicle
19 while the ability of the person to operate such vehicle was impaired
20 due to the consumption of alcohol, require such person:

- 21 a. to participate in an alcohol and drug assessment and
22 evaluation by an assessment agency or assessment
23 personnel certified by the Department of Mental Health
24 and Substance Abuse Services pursuant to Section 3-460

1 of Title 43A of the Oklahoma Statutes and, as
2 determined by the assessment, participate in an
3 alcohol and drug substance abuse course or treatment
4 program or both, pursuant to Sections 3-452 and 3-453
5 of Title 43A of the Oklahoma Statutes,

6 b. to attend a victims impact panel program, as defined
7 in subsection H of this section, if such a program is
8 offered in the county where the judgment is rendered,
9 and to pay a fee of not less than Fifteen Dollars
10 (\$15.00) nor more than Sixty Dollars (\$60.00) as set
11 by the governing authority of the program and approved
12 by the court, to the program to offset the cost of
13 participation by the defendant, if in the opinion of
14 the court the defendant has the ability to pay such
15 fee,

16 c. to both participate in the alcohol and drug substance
17 abuse course or treatment program, pursuant to
18 subparagraph a of this paragraph and attend a victims
19 impact panel program, pursuant to subparagraph b of
20 this paragraph,

21 d. to install, at the expense of the person, an ignition
22 interlock device approved by the Board of Tests for
23 Alcohol and Drug Influence, upon every motor vehicle
24 operated by such person and to require that a notation

1 of this restriction be affixed to the person's driver
2 license at the time of reinstatement of the license.
3 The restriction shall remain on the driver license for
4 such period as the court shall determine. The
5 restriction may be modified or removed by order of the
6 court and notice of the order shall be given to the
7 Department of Public Safety. Upon the expiration of
8 the period for the restriction, the Department of
9 Public Safety shall remove the restriction without
10 further court order. Failure to comply with the order
11 to install an ignition interlock device or operating
12 any vehicle without such device during the period of
13 restriction shall be a violation of the sentence and
14 may be punished as deemed proper by the sentencing
15 court, or

16 e. beginning January 1, 1993, to submit to electronically
17 monitored home detention administered and supervised
18 by the Department of Corrections, and to pay to the
19 Department a monitoring fee, not to exceed Seventy-
20 five Dollars (\$75.00) a month, to the Department of
21 Corrections, if in the opinion of the court the
22 defendant has the ability to pay such fee. Any fees
23 collected pursuant to this subparagraph shall be
24 deposited in the Department of Corrections Revolving

1 Fund. Any order by the court for the payment of the
2 monitoring fee, if willfully disobeyed, may be
3 enforced as an indirect contempt of court;

4 7. In addition to the other sentencing powers of the court, in
5 the case of a person convicted of prostitution pursuant to Section
6 1029 of Title 21 of the Oklahoma Statutes, require such person to
7 receive counseling for the behavior which may have caused such
8 person to engage in prostitution activities. Such person may be
9 required to receive counseling in areas including but not limited to
10 alcohol and substance abuse, sexual behavior problems, or domestic
11 abuse or child abuse problems;

12 8. In addition to the other sentencing powers of the court, in
13 the case of a person convicted of any crime related to domestic
14 abuse, as defined in Section 60.1 of this title, the court may
15 require the defendant to undergo the treatment or participate in an
16 intervention program for batterers certified by the Office of the
17 Attorney General, necessary to bring about the cessation of domestic
18 abuse. In the instance where the defendant alleges that he or she
19 is a victim of domestic abuse and the current conviction is a
20 response to that abuse, the court may require the defendant to
21 undergo an assessment by a domestic violence program certified by
22 the Office of the Attorney General, and, if based upon the results
23 of the assessment, the defendant is determined to be a victim of
24 domestic violence, the defendant shall undergo treatment and

1 participate in a certified program for domestic violence victims.

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

4 9. In addition to the other sentencing powers of the court, the
5 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 10. 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 11. 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 12. 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 13. 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~~ website that has the potential or likelihood of
20 allowing the sex offender to have contact with any child who is
21 under the age of eighteen (18) years; or

22 14. 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 a defendant being sentenced for:

1 1. A third or subsequent conviction of a violent crime
2 enumerated in Section 571 of Title 57 of the Oklahoma Statutes;

3 2. A fourth or subsequent conviction for any other felony
4 crime; or

5 3. Beginning January 1, 1993, a defendant being sentenced for a
6 second or subsequent felony conviction for violation of Section 11-
7 902 of Title 47 of the Oklahoma Statutes, except as otherwise
8 provided in this subsection.

9 In the case of a person being sentenced for a second or
10 subsequent felony conviction for violation of Section 11-902 of
11 Title 47 of the Oklahoma Statutes, the court may sentence the person
12 pursuant to the provisions of paragraph 1 of subsection A of this
13 section if the court orders the person to submit to electronically
14 monitored home detention administered and supervised by the
15 Department of Corrections pursuant to subparagraph e of paragraph 7
16 of subsection A of this section. Provided, the court may waive
17 these prohibitions upon written application of the district
18 attorney. Both the application and the waiver shall be made part of
19 the record of the case.

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

23 E. Probation, for purposes of subsection A of this section, is
24 a procedure by which a defendant found guilty of a crime, whether

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

22 F. The Department of Corrections, or such other agency as the
23 court may designate, shall be responsible for the monitoring and
24 administration of the restitution and service programs provided for

1 by subparagraphs a, c, and d of paragraph 1 of subsection A of this
2 section, and shall ensure that restitution payments are forwarded to
3 the victim and that service assignments are properly performed.

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

8 2. Any offender eligible to participate in the Program pursuant
9 to Section 991a et seq. of this title shall be eligible to
10 participate in a county Program; provided, participation in county-
11 funded Programs shall not be limited to offenders who would
12 otherwise be sentenced to confinement with the Department of
13 Corrections.

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

22 4. The Department is hereby authorized to provide technical
23 assistance to any county in establishing a Program, regardless of
24 whether the county enters into a contract pursuant to this

1 subsection. Technical assistance shall include appropriate
2 staffing, development of community resources, sponsorship,
3 supervision and any other requirements.

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

9 H. As used in this section:

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

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

20 3. "Victims impact panel program" means a meeting with at least
21 one live presenter who will share personal stories with participants
22 about how alcohol, drug abuse and the illegal conduct of others has
23 personally impacted the life of the presenter. A victims impact
24 panel program shall be attended by persons who have committed the

1 offense of driving, operating or being in actual physical control of
2 a motor vehicle while under the influence of alcohol or other
3 intoxicating substance. Persons attending a victims impact panel
4 program shall be required to pay a fee of not less than Fifteen
5 Dollars (\$15.00) nor more than Sixty Dollars (\$60.00) to the
6 provider of the program. A certificate of completion shall be
7 issued to the person upon satisfying the attendance and fee
8 requirements of the victims impact panel program. A victims impact
9 panel program shall not be provided by any certified assessment
10 agency or certified assessor. The provider of the victims impact
11 panel program shall carry general liability insurance and maintain
12 an accurate accounting of all business transactions and funds
13 received in relation to the victims impact panel program.

14 I. A person convicted of a felony offense or receiving any form
15 of probation for an offense in which registration is required
16 pursuant to the Sex Offenders Registration Act, shall submit to
17 deoxyribonucleic acid DNA testing for law enforcement identification
18 purposes in accordance with Section 150.27 of Title 74 of the
19 Oklahoma Statutes and the rules promulgated by the Oklahoma State
20 Bureau of Investigation for the OSBI Combined DNA Index System
21 (CODIS) Database. Subject to the availability of funds, any person
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, escape or
2 attempting to escape, eluding a police officer, Peeping Tom,
3 pointing a firearm, unlawful carry of a firearm, illegal transport
4 of a firearm, discharging of a firearm, threatening an act of
5 violence, breaking and entering a dwelling place, destruction of
6 property, negligent homicide, or causing a personal injury accident
7 while driving under the influence of any intoxicating substance, or
8 any alien unlawfully present under federal immigration law, upon
9 arrest, shall submit to deoxyribonucleic acid DNA testing for law
10 enforcement identification purposes in accordance with Section
11 150.27 of Title 74 of the Oklahoma Statutes and the rules
12 promulgated by the Oklahoma State Bureau of Investigation for the
13 OSBI Combined DNA Index System (CODIS) Database. Any defendant
14 sentenced to probation shall be required to submit to testing within
15 thirty (30) days of sentencing either to the Department of
16 Corrections or to the county sheriff or other peace officer as
17 directed by the court. Defendants who are sentenced to a term of
18 incarceration shall submit to testing in accordance with Section
19 530.1 of Title 57 of the Oklahoma Statutes, for those defendants who
20 enter the custody of the Department of Corrections or to the county
21 sheriff, for those defendants sentenced to incarceration in a county
22 jail. Convicted individuals who have previously submitted to DNA
23 testing under this section and for whom a valid sample is on file in
24 the OSBI Combined DNA Index System (CODIS) Database at the time of

1 sentencing shall not be required to submit to additional testing.

2 Except as required by the Sex Offenders Registration Act, a deferred
3 judgment does not require submission to deoxyribonucleic acid
4 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 9. AMENDATORY 22 O.S. 2021, Section 1105.2, is
18 amended to read as follows:

19 Section 1105.2 A. Following an arrest for a misdemeanor or
20 felony offense and before formal charges have been filed or an
21 indictment made, the arrested person may have bail set by the court
22 as provided in this act; provided there are no provisions of law to
23 the contrary.

24

1 B. When formal charges or an indictment has been filed, bail
2 shall be set according to law and the pretrial bond, if any, may be
3 reaffirmed unless additional security is required. Every judicial
4 district may, upon the order of the presiding judge for the
5 district, establish a pretrial bail schedule for felony or
6 misdemeanor offenses, except for traffic offenses included in
7 subsections B, C and D of Section 1115.3 of Title 22 of the Oklahoma
8 Statutes and those offenses specifically excluded herein. The bail
9 schedule established pursuant to the authority of this act shall
10 exclude any offense for which bail is not allowed by law. The bail
11 schedule authorized by this act shall be set in accordance with
12 guidelines relating to bail and shall be published and reviewed by
13 March 1 of each year by the courts and district attorney of the
14 judicial district.

15 C. The pretrial bail shall be set in a numerical dollar amount.
16 If the person fails to appear in court as required the judge shall:

17 1. Rescind the bond and proceed to enter a judgment against the
18 defendant for the dollar amount of the pretrial bail if no private
19 bail was given at the time of release; provided, however, the court
20 clerk shall follow the procedures as set forth in Section 1301 et
21 seq. of Title 59 of the Oklahoma Statutes in collecting the
22 forfeiture amount against the person who fails to appear in court;
23 or
24

1 2. Rescind and forfeit the private bail if cash, property or
2 surety bail was furnished at the time of release as set forth in
3 Section 1301 et seq. of Title 59 of the Oklahoma Statutes.

4 D. When a pretrial program exists in the judicial district
5 where the person is being held, the judge may utilize the services
6 of the pretrial release program when ordering pretrial release,
7 except when private bail has been furnished.

8 E. Upon an order for pretrial release or release on bond, the
9 person shall be released from custody without undue delay.

10 F. The court may require the person to be placed on an
11 electronic monitoring device as a condition of pretrial release.

12 ~~G. In instances where an electronic monitoring device has been~~
13 ~~ordered, the court may impose payment of a supervision fee. Payment~~
14 ~~of the fee, in whole or according to a court-ordered installment~~
15 ~~schedule, shall be a condition of pretrial release. The court clerk~~
16 ~~shall collect the supervision fees.~~

17 SECTION 10. AMENDATORY 22 O.S. 2021, Section 1355A, is
18 amended to read as follows:

19 Section 1355A. A. When an indigent requests representation by
20 the Oklahoma Indigent Defense System, such person shall submit an
21 appropriate application to the court clerk, which shall state that
22 the application is signed under oath and under the penalty of
23 perjury and that a false statement may be prosecuted as such. The
24 application shall state whether or not the indigent has been

1 released on bond. In addition, if the indigent has been released on
2 bond, the application shall include a written statement from the
3 applicant that the applicant has contacted three named attorneys,
4 licensed to practice law in this state, and the applicant has been
5 unable to obtain legal counsel. ~~A nonrefundable application fee of~~
6 ~~Forty Dollars (\$40.00) shall be paid to the court clerk at the time~~
7 ~~the application is submitted, and no application shall be accepted~~
8 ~~without payment of the fee; except that the court may, based upon~~
9 ~~the financial information submitted, defer all or part of the fee if~~
10 ~~the court determines that the person does not have the financial~~
11 ~~resources to pay the fee at time of application, to attach as a~~
12 ~~court fee upon conviction. Any fees collected pursuant to this~~
13 ~~subsection shall be retained by the court clerk, deposited in the~~
14 ~~Court Clerk's Revolving Fund, and reported quarterly to the~~
15 ~~Administrative Office of the Courts.~~

16 B. 1. The Court of Criminal Appeals shall promulgate rules
17 governing the determination of indigency pursuant to the provisions
18 of Section 55 of Title 20 of the Oklahoma Statutes. The initial
19 determination of indigency shall be made by the Chief Judge of the
20 Judicial District or a designee thereof, based on the defendant's
21 application and the rules provided herein.

22 2. Upon promulgation of the rules required by law, the
23 determination of indigency shall be subject to review by the
24 Presiding Judge of the Judicial Administrative District. Until such

1 rules become effective, the determination of indigency shall be
2 subject to review by the Court of Criminal Appeals.

3 C. Before the court appoints the System based on the
4 application, the court shall advise the indigent or, if applicable,
5 a parent or legal guardian, that the application is signed under
6 oath and under the penalty of perjury and that a false statement may
7 be prosecuted as such. A copy of the application shall be sent to
8 the prosecuting attorney or the Office of the Attorney General,
9 whichever is appropriate, for review. Upon request by any party
10 including, but not limited to, the attorney appointed to represent
11 the indigent, the court shall hold a hearing on the issue of
12 eligibility for appointment of the System.

13 D. If the defendant is admitted to bail and the defendant or
14 another person on behalf of the defendant posts a bond, other than
15 by personal recognizance, the court may consider such fact in
16 determining the eligibility of the defendant for appointment of the
17 System; provided, however, such consideration shall not be the sole
18 factor in the determination of eligibility.

19 E. The System shall be prohibited from accepting an appointment
20 unless a completed application for court-appointed counsel as
21 provided by Form 13.3 of Section XIII of the Rules of the Court of
22 Criminal Appeals, 22 O.S. 2001, Ch. 18, App., has been filed of
23 record in the case.

1 SECTION 11. AMENDATORY 28 O.S. 2021, Section 153, is
2 amended to read as follows:

3 Section 153. A. The clerks of the courts shall collect as
4 costs in every criminal case for each offense of which the defendant
5 is convicted, irrespective of whether or not the sentence is
6 deferred, the following flat charges and no more, except for
7 standing and parking violations and for charges otherwise provided
8 for by law, which fee shall cover docketing of the case, filing of
9 all papers, issuance of process, warrants, orders, and other
10 services to the date of judgment:

11 1. For each defendant convicted of
12 exceeding the speed limit by at least
13 one (1) mile per hour but not more than
14 ten (10) miles per hour, whether charged
15 individually or conjointly with others\$77.00

16 2. For each defendant convicted of a
17 misdemeanor traffic violation other than
18 an offense provided for in paragraph 1
19 or 5 of this subsection, whether charged
20 individually or conjointly with others\$98.00

21 3. For each defendant convicted of a
22 misdemeanor, other than for driving
23 under the influence of alcohol or other
24 intoxicating substance or an offense

provided for in paragraph 1 or 2 of this subsection, whether charged individually or conjointly with others\$93.00

4. For each defendant convicted of a felony, other than for driving under the influence of alcohol or other intoxicating substance, whether charged individually or conjointly with others\$103.00

5. For each defendant convicted of the misdemeanor of driving under the influence of alcohol or other intoxicating substance, whether charged individually or conjointly with others \$433.00

6. For each defendant convicted of the felony of driving under the influence of alcohol or other intoxicating substance, whether charged individually or conjointly with others\$433.00

7. For the services of a court reporter at each preliminary hearing and trial held in the case\$20.00

8. For each time a jury is requested.....\$30.00

9. A sheriff's fee for serving or endeavoring to serve each writ, warrant,

1 than for driving under the influence of alcohol or other
2 intoxicating substance; the sum of Thirty Dollars (\$30.00) shall be
3 assessed and collected in every misdemeanor case for each offense;
4 the sum of Thirty Dollars (\$30.00) shall be assessed and collected
5 in every misdemeanor case for each offense for driving under the
6 influence of alcohol or other intoxicating substance; the sum of
7 Fifty Dollars (\$50.00) shall be assessed and collected in every
8 felony case for each offense; and the sum of Fifty Dollars (\$50.00)
9 shall be assessed and collected in every felony case for each
10 offense for driving under the influence of alcohol or other
11 intoxicating substance.

12 D. In addition to the amounts collected pursuant to subsections
13 A and B of this section, the sum of Twenty-five Dollars (\$25.00)
14 shall be assessed and credited to the Oklahoma Court Information
15 System Revolving Fund created pursuant to Section 1315 of Title 20
16 of the Oklahoma Statutes.

17 E. In addition to the amount collected pursuant to paragraphs 1
18 through 6 of subsection A of this section, the sum of Ten Dollars
19 (\$10.00) shall be assessed and credited to the Sheriff's Service Fee
20 Account in the county in which the conviction occurred for the
21 purpose of enhancing existing or providing additional courthouse
22 security.

23 F. In addition to the amounts collected pursuant to paragraphs
24 1 through 6 of subsection A of this section, the sum of Three

1 Dollars (\$3.00) shall be assessed and credited to the Office of the
2 Attorney General Victim Services Unit.

3 G. In addition to the amounts collected pursuant to paragraphs
4 1 through 6 of subsection A of this section, the sum of Three
5 Dollars (\$3.00) shall be assessed and credited to the Child Abuse
6 Multidisciplinary Account. This fee shall not be used for purposes
7 of hiring or employing any law enforcement officers.

8 ~~H. In addition to the amount collected pursuant to paragraphs 5~~
9 ~~and 6 of subsection A of this section, the sum of Fifteen Dollars~~
10 ~~(\$15.00) shall be assessed in every misdemeanor or felony case for~~
11 ~~each offense of driving under the influence of alcohol or other~~
12 ~~intoxicating substance and credited to the Oklahoma Impaired Driver~~
13 ~~Database Revolving Fund created pursuant to Section 8 of Enrolled~~
14 ~~House Bill No. 3146 of the 2nd Session of the 55th Oklahoma~~
15 ~~Legislature.~~

16 ~~I.~~ Prior to conviction, parties in criminal cases shall not be
17 required to pay, advance, or post security for the services of a
18 language interpreter or for the issuance or service of process to
19 obtain compulsory attendance of witnesses.

20 ~~J.~~ I. The amounts to be assessed as court costs upon filing of
21 a case shall be those amounts above-stated in paragraph 3 or 4 of
22 subsection A and subsections B, C, D and E of this section.

23 ~~K.~~ J. The fees collected pursuant to this section shall be
24 deposited into the court fund, except the following:

1 1. A court clerk issuing a misdemeanor warrant is entitled to
2 ten percent (10%) of the sheriff's service fee, provided for in
3 paragraph 9 of subsection A of this section, collected on a warrant
4 referred to the contractor for the misdemeanor warrant notification
5 program governed by Sections 514.4 and 514.5 of Title 19 of the
6 Oklahoma Statutes. This ten-percent sum shall be deposited into the
7 issuing Court Clerk's Revolving Fund, created pursuant to Section
8 220 of Title 19 of the Oklahoma Statutes, of the court clerk issuing
9 the warrant with the balance of the sheriff's service fee to be
10 deposited into the Sheriff's Service Fee Account, created pursuant
11 to the provisions of Section 514.1 of Title 19 of the Oklahoma
12 Statutes, of the sheriff in the county in which service is made or
13 attempted. Otherwise, the sheriff's service fee, when collected,
14 shall be deposited in its entirety into the Sheriff's Service Fee
15 Account of the sheriff in the county in which service is made or
16 attempted;

17 2. The sheriff's fee provided for in Section 153.2 of this
18 title;

19 3. ~~The witness fees paid by the district attorney pursuant to~~
20 ~~the provisions of Section 82 of this title which, if collected by~~
21 ~~the court clerk, shall be transferred to the district attorney's~~
22 ~~office in the county where witness attendance was required. Fees~~
23 ~~transferred pursuant to this paragraph shall be deposited in the~~
24 ~~district attorney's maintenance and operating expense account;~~

1 ~~4.~~ The fees provided for in subsection C of this section shall
2 be forwarded to the District Attorneys Council Revolving Fund to
3 defray the costs of prosecution; and

4 ~~5.~~ 4. The following amounts of the fees provided for in
5 paragraphs 2, 3, 5 and 6 of subsection A of this section, when
6 collected, shall be deposited in the Trauma Care Assistance
7 Revolving Fund, created pursuant to the provisions of Section 1-
8 2530.9 of Title 63 of the Oklahoma Statutes:

9 a. Ten Dollars (\$10.00) of the Ninety-eight-Dollar fee
10 provided for in paragraph 2 of subsection A of this
11 section,

12 b. Ten Dollars (\$10.00) of the Ninety-three-Dollar fee
13 provided for in paragraph 3 of subsection A of this
14 section,

15 c. One Hundred Dollars (\$100.00) of the Four-Hundred-
16 Thirty-three-Dollar fee provided for in paragraph 5 of
17 subsection A of this section, and

18 d. One Hundred Dollars (\$100.00) of the Four-Hundred-
19 Thirty-three-Dollar fee provided for in paragraph 6 of
20 subsection A of this section.

21 ~~H.~~ K. Costs required to be collected pursuant to this section
22 shall not be dismissed or waived; provided, if the court determines
23 that a person needing the services of a language interpreter is
24

1 indigent, the court may waive all or part of the costs or require
2 the payment of costs in installments.

3 ~~M.~~ L. As used in this section, "convicted" means any final
4 adjudication of guilt, whether pursuant to a plea of guilty or nolo
5 contendere or otherwise, and any deferred judgment or suspended
6 sentence.

7 ~~N.~~ M. A court clerk may accept in payment for any fee, fine,
8 forfeiture payment, cost, penalty assessment or other charge or
9 collection to be assessed or collected by a court clerk pursuant to
10 this section a nationally recognized credit card or debit card or
11 other electronic payment method as provided in paragraph 1 of
12 subsection B of Section 151 of this title.

13 ~~O.~~ N. Upon receipt of payment of fines and costs for offenses
14 charged prior to July 1, 1992, the court clerk shall apportion and
15 pay Thirteen Dollars (\$13.00) per conviction to the court fund.

16 SECTION 12. AMENDATORY 29 O.S. 2021, Section 9-114, is
17 amended to read as follows:

18 Section 9-114. A. 1. In addition to any other penalties
19 provided for in the Wildlife Bail Procedure Act or any other
20 applicable law, when a person fails to comply with a wildlife
21 citation or a sentence for a violation of wildlife laws or rules,
22 the district court which has jurisdiction of the citation or which
23 issued the sentence shall mail a notice to the person informing them
24 that if they do not appear in the district court or pay all fines,

1 court costs, assessments or fees, and any penalties imposed within
2 thirty (30) days from the date of mailing, the Oklahoma Department
3 of Wildlife Conservation shall be notified to begin procedures to
4 forfeit or suspend any license, permit, stamp or other issue of the
5 Department held by the person.

6 2. Upon receipt of a report from a district court of a failure
7 to comply with a wildlife citation or sentence as set forth in
8 paragraph 1 of this subsection the Department shall suspend or
9 forfeit the license, permit, stamp or other issue of the Department
10 held by the person until satisfactory evidence of compliance with
11 the wildlife citation or sentence of the district court is furnished
12 to the Department by the district court. Upon receipt of
13 notification of compliance from the district court, the Department
14 shall terminate the suspension action, unless the suspension is
15 otherwise required.

16 B. ~~Except as provided for in subsection C of this section, when~~
17 ~~the district court notifies the Department of Wildlife Conservation~~
18 ~~of a failure to comply with a wildlife citation or failure to comply~~
19 ~~with a sentence of the district, the court shall assess a~~
20 ~~reinstatement fee of Fifty Dollars (\$50.00) for each charge or~~
21 ~~sentence on which the person failed to make satisfaction, regardless~~
22 ~~of the disposition of the charge for which the citation was~~
23 ~~originally issued. The reinstatement fee shall be in addition to~~
24 ~~any fine, court costs and other assessments, fees or penalties. The~~

1 ~~district court shall remit all reinstatement fees to the Department~~
2 ~~in accordance with the provisions of state law. The Department~~
3 ~~shall deposit the entire amount of each reinstatement fee in the~~
4 ~~Wildlife General Fund.~~

5 ~~C. The district court shall waive the reinstatement fee~~
6 ~~provided for in subsection B of this section if the failure to~~
7 ~~comply with a wildlife citation was the result of the person~~
8 ~~enlisting in or being drafted into the armed services of the United~~
9 ~~States of America, being called into service as a member of a~~
10 ~~reserve component of the military service of the United States of~~
11 ~~America, volunteering for active duty or being called into service~~
12 ~~as a member of the Oklahoma National Guard or volunteering for~~
13 ~~active duty and being absent from Oklahoma because of military~~
14 ~~service.~~

15 ~~D.~~ A person whose privileges have been suspended as provided
16 for in this section and who hunts, traps or fishes in this state,
17 who applies for or purchases any license or permit to hunt, trap, or
18 fish in this state, or who refuses to surrender any current hunting,
19 trapping or fishing licenses as required pursuant to this section
20 shall be deemed guilty of a misdemeanor and shall be fined not less
21 than One Hundred Dollars (\$100.00) or more than Five Hundred Dollars
22 (\$500.00).

23 SECTION 13. AMENDATORY 47 O.S. 2021, Section 11-705, is
24 amended to read as follows:

1 Section 11-705. A. The driver of a vehicle meeting or
2 overtaking a school bus that is stopped to take on or discharge
3 school children, and on which the red loading signals are in
4 operation, is to stop the vehicle before it reaches the school bus
5 and not proceed until the loading signals are deactivated and then
6 proceed past such school bus at a speed which is reasonable and with
7 due caution for the safety of such school children and other
8 occupants. Any person convicted of violating the provisions of this
9 subsection shall be punished by a fine of not less than One Hundred
10 Dollars (\$100.00). ~~In addition to the fine, a special assessment of~~
11 ~~One Hundred Dollars (\$100.00) shall be assessed, of which seventy-~~
12 ~~five percent (75%) shall be deposited to the credit of the Cameras~~
13 ~~for School Bus Stops Revolving Fund established in Section 9-119 of~~
14 ~~Title 70 of the Oklahoma Statutes. The remaining twenty-five~~
15 ~~percent (25%) of the special assessment shall be deposited to the~~
16 ~~credit of the reviewing law enforcement agency referred to in~~
17 ~~subsection E of this section.~~

18 B. Visual signals, meeting the requirements of Section 12-228
19 of this title, shall be actuated by the driver of said school bus
20 whenever, but only whenever, such vehicle is stopped on the highway
21 for the purpose of receiving or discharging school children.

22 C. The driver of a vehicle upon a highway with separate
23 roadways need not stop upon meeting or passing a school bus which is
24 on a different roadway or when upon a controlled-access highway and

1 the school bus is stopped in a loading zone which is a part of or
2 adjacent to such highway and where pedestrians are not permitted to
3 cross the roadway.

4 D. If the driver of a school bus witnesses a violation of the
5 provisions of subsection A of this section, on or before the end of
6 the next business day following the alleged offense, the driver
7 shall report the violation, the vehicle color, license tag number,
8 and the time and place such violation occurred to the law
9 enforcement authority of the municipality where the violation
10 occurred. The law enforcement authority of a municipality shall
11 issue a letter of warning on the alleged violation to the person in
12 whose name the vehicle is registered. The Office of the Attorney
13 General shall provide a form letter to each municipal law
14 enforcement agency in this state for the issuance of the warning
15 provided for in this subsection. Such form letter shall be used by
16 each such law enforcement agency in the exact form provided for by
17 the Office of the Attorney General. A warning letter issued
18 pursuant to this subsection shall not be recorded on the driving
19 record of the person to whom such letter was issued. Issuance of a
20 warning letter pursuant to this section shall not preclude the
21 imposition of other penalties as provided by law.

22 E. 1. A school district may install and operate a video-
23 monitoring system in or on the school buses or the bus stop-arms
24 operated by the district or contract with a private vendor to do so

1 on behalf of the school district for the purpose of recording
2 violations of subsection A of this section. In the event the video-
3 monitoring system captures a recording of a violation of subsection
4 A of this section, appropriate personnel at the school district
5 shall extract data related to the violation from the recording. The
6 extracted data shall include a recorded image or video containing
7 the requirements listed in paragraph 2 of this subsection. The
8 school district shall submit the extracted data for review to the
9 law enforcement agency with jurisdiction in which the violation
10 occurred. If the reviewing law enforcement agency determines there
11 is sufficient evidence to identify the vehicle and the driver, such
12 evidence shall be submitted to the district attorney's office for
13 prosecution.

14 2. For the purposes of this subsection, "video-monitoring
15 system" means a system with one or more camera sensors and computers
16 installed and operated on a school bus that produces live digital
17 and recorded video of motor vehicles being operated in violation of
18 subsection A of this section. The system shall, at a minimum,
19 produce a recorded image of the license plate of the vehicle, an
20 identifiable picture of the driver's face, the activation status of
21 at least one warning device as prescribed in Section 12-228 of this
22 title and the time, date and location of the vehicle when the image
23 was recorded.

1 SECTION 14. AMENDATORY 47 O.S. 2021, Section 11-801e, is
2 amended to read as follows:

3 Section 11-801e. Notwithstanding any other provision of law,
4 any person convicted of a speeding violation of one (1) to ten (10)
5 miles per hour over the limit, pursuant to subsection B or F of
6 Section 11-801 of ~~Title 47 of the Oklahoma Statutes~~ this title,
7 shall be punished by a fine of Five Dollars (\$5.00) and costs and
8 fees not to exceed Ninety-five Dollars (\$95.00). The court clerk
9 shall collect fine, costs and fees to be directed as follows:

10 1. The sum of Thirty-three Dollars and seventy-two cents
11 (\$33.72) for each offense of which the defendant is convicted,
12 irrespective of whether the sentence is deferred, shall cover
13 docketing of the case, filing of all papers, issuance of process,
14 warrants, order and other services to the date of judgment;

15 2. The sum of Eight Dollars and eighty cents (\$8.80) shall be
16 assessed and credited to the District Attorneys Council Revolving
17 Fund to defray the cost of prosecution;

18 3. The sum of Eleven Dollars (\$11.00) shall be assessed and
19 credited to the Oklahoma Court Information System Revolving Fund
20 created pursuant to Section 1315 of Title 20 of the Oklahoma
21 Statutes;

22 4. The sum of Four Dollars and fifty cents (\$4.50) shall be
23 assessed and credited to the Sheriff's Service Fee Account in the
24

1 county in which the conviction occurred for the purpose of enhancing
2 existing or providing additional courthouse security;

3 5. The sum of One Dollar and thirty cents (\$1.30) shall be
4 assessed and credited to the Office of the Attorney General Victim
5 Services Unit;

6 6. The sum of One Dollar and thirty cents (\$1.30) shall be
7 assessed and credited to the Child Abuse Multidisciplinary Account;

8 7. The sum of Two Dollars and twenty-five cents (\$2.25) shall
9 be assessed and credited to the Sheriff's Service Fee Account of the
10 sheriff of the county in which the arrest was made;

11 8. The sum of Four Dollars and fifty cents (\$4.50) shall be
12 assessed and credited to the Council on Law Enforcement Education
13 and Training (CLEET) Fund;

14 ~~9. The sum of Four Dollars and fifty cents (\$4.50) shall be~~
15 ~~assessed. Four Dollars and ten cents (\$4.10) of each fee received~~
16 ~~pursuant to this paragraph shall be credited to the A.F.I.S. Fund~~
17 ~~created by Section 150.25 of Title 74 of the Oklahoma Statutes and~~
18 ~~the balance deposited into the General Revenue Fund by the court~~
19 ~~clerk. The payments shall be made to the appropriate fund by the~~
20 ~~court clerk on a monthly basis as set forth by subsection I of~~
21 ~~Section 1313.2 of Title 20 of the Oklahoma Statutes;~~

22 ~~10.~~ The sum of Four Dollars and fifty cents (\$4.50) shall be
23 assessed. Four Dollars and twenty-eight cents (\$4.28) of each fee
24 received pursuant to this paragraph shall be collected and sent to

1 the Oklahoma State Bureau of Investigation for deposit into the
2 Forensic Science Improvement Revolving Fund created by Section
3 150.35 of Title 74 of the Oklahoma Statutes. The balance shall be
4 retained by the municipal court clerk;

5 ~~11.~~ 10. The sum of Nine Dollars (\$9.00) shall be assessed and
6 forwarded monthly in one check or draft to the Department of Public
7 Safety to be deposited in the Department of Public Safety Patrol
8 Vehicle Revolving Fund;

9 ~~12.~~ 11. Pursuant to subsection C of Section 220 of Title 19 of
10 the Oklahoma Statutes, the court clerk shall assess an
11 administrative fee of ten percent (10%) on fees assessed in
12 paragraphs 2, 4, 5, 6, 8, 9, 10 and 11 of this subsection which
13 shall be deposited in the Court Clerk's Revolving Fund;

14 ~~13.~~ 12. Pursuant to subsection D of Section 220 of Title 19 of
15 the Oklahoma Statutes, the court clerk shall assess an
16 administrative fee of fifteen percent (15%) on fees assessed in
17 paragraphs 2, 4, 5, 6, 8, 9, 10 and 11 of this subsection and shall
18 be deposited in the District Court Revolving Fund.

19 SECTION 15. AMENDATORY 47 O.S. 2021, Section 11-902, is
20 amended to read as follows:

21 Section 11-902. A. It is unlawful and punishable as provided
22 in this section for any person to drive, operate, or be in actual
23 physical control of a motor vehicle within this state, whether upon
24 public roads, highways, streets, turnpikes, other public places or

1 upon any private road, street, alley or lane which provides access
2 to one or more single_ or multi-family dwellings, who:

3 1. Has a blood or breath alcohol concentration, as defined in
4 Section 756 of this title, of eight-hundredths (0.08) or more at the
5 time of a test of such person's blood or breath administered within
6 two (2) hours after the arrest of such person;

7 2. Is under the influence of alcohol;

8 3. Has any amount of a Schedule I chemical or controlled
9 substance, as defined in Section 2-204 of Title 63 of the Oklahoma
10 Statutes, or one of its metabolites or analogs in the person's
11 blood, saliva, urine or any other bodily fluid at the time of a test
12 of such person's blood, saliva, urine or any other bodily fluid
13 administered within two (2) hours after the arrest of such person;

14 4. Is under the influence of any intoxicating substance other
15 than alcohol which may render such person incapable of safely
16 driving or operating a motor vehicle; or

17 5. Is under the combined influence of alcohol and any other
18 intoxicating substance which may render such person incapable of
19 safely driving or operating a motor vehicle.

20 B. The fact that any person charged with a violation of this
21 section is or has been lawfully entitled to use alcohol or a
22 controlled dangerous substance or any other intoxicating substance
23 shall not constitute a defense against any charge of violating this
24 section.

1 C. 1. Any person who is convicted of a violation of the
2 provisions of this section shall be guilty of a misdemeanor for the
3 first offense and shall:

- 4 a. participate in an assessment and evaluation pursuant
5 to subsection G of this section and shall follow all
6 recommendations made in the assessment and evaluation,
- 7 b. be punished by imprisonment in jail for not less than
8 ten (10) days nor more than one (1) year, and
- 9 c. be fined not more than One Thousand Dollars
10 (\$1,000.00).

11 2. Any person who, having been convicted of or having received
12 deferred judgment for a violation of this section or a violation
13 pursuant to the provisions of any law of this state or another state
14 prohibiting the offenses provided in this section, Section 11-904 of
15 this title or paragraph 4 of subsection A of Section 852.1 of Title
16 21 of the Oklahoma Statutes, or having a prior conviction in a
17 municipal criminal court of record for the violation of a municipal
18 ordinance prohibiting the offense provided for in this section
19 commits a subsequent violation of this section within ten (10) years
20 of the date following the completion of the execution of said
21 sentence or deferred judgment shall, upon conviction, be guilty of a
22 felony and shall participate in an assessment and evaluation
23 pursuant to subsection G of this section and shall be sentenced to:
24

- 1 a. follow all recommendations made in the assessment and
2 evaluation for treatment at the defendant's expense,
3 or
4 b. placement in the custody of the Department of
5 Corrections for not less than one (1) year and not to
6 exceed five (5) years and a fine of not more than Two
7 Thousand Five Hundred Dollars (\$2,500.00), or
8 c. treatment, imprisonment and a fine within the
9 limitations prescribed in subparagraphs a and b of
10 this paragraph.

11 However, if the treatment in subsection G of this section does
12 not include residential or inpatient treatment for a period of not
13 less than five (5) days, the person shall serve a term of
14 imprisonment of at least five (5) days.

15 3. Any person who commits a violation of this section after
16 having been convicted of a felony offense pursuant to the provisions
17 of this section or a violation pursuant to the provisions of any law
18 of this state or another state prohibiting the offenses provided for
19 in this section, Section 11-904 of this title or paragraph 4 of
20 subsection A of Section 852.1 of Title 21 of the Oklahoma Statutes
21 shall be guilty of a felony and participate in an assessment and
22 evaluation pursuant to subsection G of this section and shall be
23 sentenced to:
24

- 1 a. follow all recommendations made in the assessment and
2 evaluation for treatment at the defendant's expense,
3 two hundred forty (240) hours of community service and
4 use of an ignition interlock device, as provided by
5 subparagraph n of paragraph 1 of subsection A of
6 Section 991a of Title 22 of the Oklahoma Statutes, or
7 b. placement in the custody of the Department of
8 Corrections for not less than one (1) year and not to
9 exceed ten (10) years and a fine of not more than Five
10 Thousand Dollars (\$5,000.00), or
11 c. treatment, imprisonment and a fine within the
12 limitations prescribed in subparagraphs a and b of
13 this paragraph.

14 However, if the treatment in subsection G of this section does
15 not include residential or inpatient treatment for a period of not
16 less than ten (10) days, the person shall serve a term of
17 imprisonment of at least ten (10) days.

18 4. Any person who commits a violation of this section after
19 having been twice convicted of a felony offense pursuant to the
20 provisions of this section or a violation pursuant to the provisions
21 of any law of this state or another state prohibiting the offenses
22 provided for in this section, Section 11-904 of this title or
23 paragraph 4 of subsection A of Section 852.1 of Title 21 of the
24 Oklahoma Statutes shall be guilty of a felony and participate in an

1 assessment and evaluation pursuant to subsection G of this section
2 and shall be sentenced to:

- 3 a. follow all recommendations made in the assessment and
4 evaluation for treatment at the defendant's expense,
5 followed by not less than one (1) year of supervision
6 and periodic testing at the defendant's expense, four
7 hundred eighty (480) hours of community service, and
8 use of an ignition interlock device, as provided by
9 subparagraph n of paragraph 1 of subsection A of
10 Section 991a of Title 22 of the Oklahoma Statutes, for
11 a minimum of thirty (30) days, or
- 12 b. placement in the custody of the Department of
13 Corrections for not less than one (1) year and not to
14 exceed twenty (20) years and a fine of not more than
15 Five Thousand Dollars (\$5,000.00), or
- 16 c. treatment, imprisonment and a fine within the
17 limitations prescribed in subparagraphs a and b of
18 this paragraph.

19 However, if the person does not undergo residential or inpatient
20 treatment pursuant to subsection G of this section the person shall
21 serve a term of imprisonment of at least ten (10) days.

22 5. Any person who, after a previous conviction of a violation
23 of murder in the second degree or manslaughter in the first degree
24 in which the death was caused as a result of driving under the

1 influence of alcohol or other intoxicating substance, is convicted
2 of a violation of this section shall be guilty of a felony and shall
3 be punished by imprisonment in the custody of the Department of
4 Corrections for not less than five (5) years and not to exceed
5 twenty (20) years, and a fine of not more than Ten Thousand Dollars
6 (\$10,000.00).

7 6. Provided, however, a conviction from another state shall not
8 be used to enhance punishment pursuant to the provisions of this
9 subsection if that conviction is based on a blood or breath alcohol
10 concentration of less than eight-hundredths (0.08).

11 7. In any case in which a defendant is charged with driving
12 under the influence of alcohol or other intoxicating substance
13 offense within any municipality with a municipal court other than a
14 court of record, the charge shall be presented to the county's
15 district attorney and filed with the district court of the county
16 within which the municipality is located.

17 D. Any person who is convicted of a violation of driving under
18 the influence with a blood or breath alcohol concentration of
19 fifteen-hundredths (0.15) or more pursuant to this section shall be
20 deemed guilty of aggravated driving under the influence. A person
21 convicted of aggravated driving under the influence shall
22 participate in an assessment and evaluation pursuant to subsection G
23 of this section and shall comply with all recommendations for
24

1 treatment. Such person shall be sentenced as provided in paragraph
2 1, 2, 3, 4 or 5 of subsection C of this section and to:

3 1. Not less than one (1) year of supervision and periodic
4 testing at the defendant's expense; and

5 2. An ignition interlock device or devices, as provided by
6 subparagraph n of paragraph 1 of subsection A of Section 991a of
7 Title 22 of the Oklahoma Statutes, for a minimum of ninety (90)
8 days.

9 E. When a person is sentenced to imprisonment in the custody of
10 the Department of Corrections, the person shall be processed through
11 the Lexington Assessment and Reception Center or at a place
12 determined by the Director of the Department of Corrections. The
13 Department of Corrections shall classify and assign the person to
14 one or more of the following:

15 1. The Department of Mental Health and Substance Abuse Services
16 pursuant to paragraph 1 of subsection A of Section 612 of Title 57
17 of the Oklahoma Statutes; or

18 2. A correctional facility operated by the Department of
19 Corrections with assignment to substance abuse treatment.

20 Successful completion of a Department-of-Corrections-approved
21 substance abuse treatment program shall satisfy the recommendation
22 for a ten-hour or twenty-four-hour alcohol and drug substance abuse
23 course or treatment program or both. Successful completion of an
24

1 approved Department of Corrections substance abuse treatment program
2 may precede or follow the required assessment.

3 F. The Department of Public Safety is hereby authorized to
4 reinstate any suspended or revoked driving privilege when the person
5 meets the statutory requirements which affect the existing driving
6 privilege.

7 G. Any person who is found guilty of a violation of the
8 provisions of this section shall be ordered to participate in an
9 alcohol and drug substance abuse evaluation and assessment program
10 offered by a certified assessment agency or certified assessor for
11 the purpose of evaluating and assessing the receptivity to treatment
12 and prognosis of the person and shall follow all recommendations
13 made in the assessment and evaluation for treatment. The court
14 shall order the person to reimburse the agency or assessor for the
15 evaluation and assessment. Payment shall be remitted by the
16 defendant or on behalf of the defendant by any third party;
17 provided, no state-appropriated funds are utilized. The fee for an
18 evaluation and assessment shall be the amount provided in subsection
19 C of Section 3-460 of Title 43A of the Oklahoma Statutes. The
20 evaluation and assessment shall be conducted at a certified
21 assessment agency, the office of a certified assessor or at another
22 location as ordered by the court. The agency or assessor shall,
23 within seventy-two (72) hours from the time the person is evaluated
24 and assessed, submit a written report to the court for the purpose

1 of assisting the court in its sentencing determination. The court
2 shall, as a condition of any sentence imposed, including deferred
3 and suspended sentences, require the person to participate in and
4 successfully complete all recommendations from the evaluation, such
5 as an alcohol and substance abuse treatment program pursuant to
6 Section 3-452 of Title 43A of the Oklahoma Statutes. If such report
7 indicates that the evaluation and assessment shows that the
8 defendant would benefit from a ten-hour or twenty-four-hour alcohol
9 and drug substance abuse course or a treatment program or both, the
10 court shall, as a condition of any sentence imposed, including
11 deferred and suspended sentences, require the person to follow all
12 recommendations identified by the evaluation and assessment and
13 ordered by the court. No person, agency or facility operating an
14 evaluation and assessment program certified by the Department of
15 Mental Health and Substance Abuse Services shall solicit or refer
16 any person evaluated and assessed pursuant to this section for any
17 treatment program or substance abuse service in which such person,
18 agency or facility has a vested interest; however, this provision
19 shall not be construed to prohibit the court from ordering
20 participation in or any person from voluntarily utilizing a
21 treatment program or substance abuse service offered by such person,
22 agency or facility. If a person is sentenced to imprisonment in the
23 custody of the Department of Corrections and the court has received
24 a written evaluation report pursuant to the provisions of this

1 subsection, the report shall be furnished to the Department of
2 Corrections with the judgment and sentence. Any evaluation and
3 assessment report submitted to the court pursuant to the provisions
4 of this subsection shall be handled in a manner which will keep such
5 report confidential from the general public's review. Nothing
6 contained in this subsection shall be construed to prohibit the
7 court from ordering judgment and sentence in the event the defendant
8 fails or refuses to comply with an order of the court to obtain the
9 evaluation and assessment required by this subsection. If the
10 defendant fails or refuses to comply with an order of the court to
11 obtain the evaluation and assessment, the Department of Public
12 Safety shall not reinstate driving privileges until the defendant
13 has complied in full with such order. Nothing contained in this
14 subsection shall be construed to prohibit the court from ordering
15 judgment and sentence and any other sanction authorized by law for
16 failure or refusal to comply with an order of the court.

17 H. Any person who is found guilty of a violation of the
18 provisions of this section shall be required by the court to attend
19 a victims impact panel program, as defined in subsection H of
20 Section 991a of Title 22 of the Oklahoma Statutes, if such a program
21 is offered in the county where the judgment is rendered, and to pay
22 a fee of Seventy-five Dollars (\$75.00), as set by the governing
23 authority of the program and approved by the court, to the program
24

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

3 I. Any person who is found guilty of a felony violation of the
4 provisions of this section shall be required to submit to electronic
5 monitoring as authorized and defined by Section 991a of Title 22 of
6 the Oklahoma Statutes.

7 J. Any person who is found guilty of a violation of the
8 provisions of this section who has been sentenced by the court to
9 perform any type of community service shall not be permitted to pay
10 a fine in lieu of performing the community service.

11 ~~K. When a person is found guilty of a violation of the~~
12 ~~provisions of this section, the court shall order, in addition to~~
13 ~~any other penalty, the defendant to pay a one-hundred-dollar~~
14 ~~assessment to be deposited in the Drug Abuse Education and Treatment~~
15 ~~Revolving Fund created in Section 2-503.2 of Title 63 of the~~
16 ~~Oklahoma Statutes, upon collection.~~

17 ~~L.~~ 1. When a person is eighteen (18) years of age or older,
18 and is the driver, operator, or person in physical control of a
19 vehicle, and is convicted of violating any provision of this section
20 while transporting or having in the motor vehicle any child less
21 than eighteen (18) years of age, the fine shall be enhanced to
22 double the amount of the fine imposed for the underlying driving
23 under the influence (DUI) violation which shall be in addition to
24 any other penalties allowed by this section.

1 2. Nothing in this subsection shall prohibit the prosecution of
2 a person pursuant to Section 852.1 of Title 21 of the Oklahoma
3 Statutes who is in violation of any provision of this section or
4 Section 11-904 of this title.

5 ~~M.~~ L. Any plea of guilty, nolo contendere or finding of guilt
6 for a violation of this section or a violation pursuant to the
7 provisions of any law of this state or another state prohibiting the
8 offenses provided for in this section, Section 11-904 of this title,
9 or paragraph 4 of subsection A of Section 852.1 of Title 21 of the
10 Oklahoma Statutes, shall constitute a conviction of the offense for
11 the purpose of this section; provided, any deferred judgment shall
12 only be considered to constitute a conviction for a period of ten
13 (10) years following the completion of any court-imposed
14 probationary term.

15 ~~N.~~ M. If qualified by knowledge, skill, experience, training or
16 education, a witness shall be allowed to testify in the form of an
17 opinion or otherwise solely on the issue of impairment, but not on
18 the issue of specific alcohol concentration level, relating to the
19 following:

20 1. The results of any standardized field sobriety test
21 including, but not limited to, the horizontal gaze nystagmus (HGN)
22 test administered by a person who has completed training in
23 standardized field sobriety testing; or
24

1 2. Whether a person was under the influence of one or more
2 impairing substances and the category of such impairing substance or
3 substances. A witness who has received training and holds a current
4 certification as a drug recognition expert shall be qualified to
5 give the testimony in any case in which such testimony may be
6 relevant.

7 SECTION 16. AMENDATORY 47 O.S. 2021, Section 11-1112, is
8 amended to read as follows:

9 Section 11-1112. A. Every driver, when transporting a child
10 under eight (8) years of age in a motor vehicle operated on the
11 roadways, streets, or highways of this state, shall provide for the
12 protection of said child by properly using a child passenger
13 restraint system as follows:

14 1. A child under four (4) years of age shall be properly
15 secured in a child passenger restraint system. Except as provided
16 in subsection G of this section, the child passenger restraint
17 system shall be rear-facing until the child reaches two (2) years of
18 age or until the child reaches the weight or height limit of the
19 rear-facing child passenger restraint system as allowed by the
20 manufacturer of the child passenger restraint system, whichever
21 occurs first; and

22 2. A child at least four (4) years of age but younger than
23 eight (8) years of age, if not taller than 4 feet 9 inches in
24

1 height, shall be properly secured in either a child passenger
2 restraint system or child booster seat.

3 For purposes of this section and Section 11-1113 of this title,
4 "child passenger restraint system" means an infant or child
5 passenger restraint system which meets the federal standards as set
6 by 49 C.F.R., Section 571.213.

7 B. If a child is eight (8) years of age or is taller than 4
8 feet 9 inches in height, a seat belt properly secured to the vehicle
9 shall be sufficient to meet the requirements of this section.

10 C. The provisions of this section shall not apply to:

11 1. The driver of a school bus, taxicab, moped, motorcycle, or
12 other motor vehicle not required to be equipped with safety belts
13 pursuant to state or federal laws;

14 2. The driver of an ambulance or emergency vehicle;

15 3. The driver of a vehicle in which all of the seat belts are
16 in use;

17 4. The transportation of children who for medical reasons are
18 unable to be placed in such devices, provided there is written
19 documentation from a physician of such medical reason; or

20 5. The transportation of a child who weighs more than forty
21 (40) pounds and who is being transported in the back seat of a
22 vehicle while wearing only a lap safety belt when the back seat of
23 the vehicle is not equipped with combination lap and shoulder safety
24 belts, or when the combination lap and shoulder safety belts in the

1 back seat are being used by other children who weigh more than forty
2 (40) pounds. Provided, however, for purposes of this paragraph,
3 back seat shall include all seats located behind the front seat of a
4 vehicle operated by a licensed child care facility or church.
5 Provided further, there shall be a rebuttable presumption that a
6 child has met the weight requirements of this paragraph if at the
7 request of any law enforcement officer, the licensed child care
8 facility or church provides the officer with a written statement
9 verified by the parent or legal guardian that the child weighs more
10 than forty (40) pounds.

11 D. A violation of the provisions of this section shall be
12 admissible as evidence in any civil action or proceeding for damages
13 unless the plaintiff in such action or proceeding is a child under
14 sixteen (16) years of age.

15 In any action brought by or on behalf of an infant for personal
16 injuries or wrongful death sustained in a motor vehicle collision,
17 the failure of any person to have the infant properly restrained in
18 accordance with the provisions of this section shall not be used in
19 aggravation or mitigation of damages.

20 E. A person who is certified as a Child Passenger Safety
21 Technician and who in good faith provides inspection, adjustment, or
22 educational services regarding child passenger restraint systems
23 shall not be liable for civil damages resulting from any act or
24

1 omission in providing such services, other than acts or omissions
2 constituting gross negligence or willful or wanton misconduct.

3 ~~F. Any person convicted of violating subsection A of this~~
4 ~~section shall be punished by a fine of Fifty Dollars (\$50.00) and~~
5 ~~shall pay all court costs thereof. Revenue from such fine shall be~~
6 ~~apportioned to the Department of Public Safety Restricted Revolving~~
7 ~~Fund and used by the Oklahoma Highway Safety Office to promote the~~
8 ~~use of child passenger restraint systems as provided in Section 11-~~
9 ~~1113 of this title. This fine shall be suspended and the court~~
10 ~~costs limited to a maximum of Fifteen Dollars (\$15.00) in the case~~
11 ~~of the first offense upon proof of purchase or acquisition by loan~~
12 ~~of a child passenger restraint system. Provided, the Department of~~
13 ~~Public Safety shall not assess points to the driving record of any~~
14 ~~person convicted of a violation of this section.~~

15 ~~G.~~ A driver of a vehicle who has been rightfully issued a
16 detachable placard indicating physical disability under the
17 provisions of Section 15-112 of this title or a physically disabled
18 license plate under the provisions of Section 1135.1 or 1135.2 of
19 this title and valid letter of forward-facing exemption issued from
20 the Department of Public Safety shall be permitted to transport a
21 child passenger under four (4) years of age in a forward-facing
22 child passenger restraint system. The placard and forward-facing
23 exemption letter must be present in the vehicle to be in compliance.

1 SECTION 17. AMENDATORY 47 O.S. 2021, Section 17-101, is
2 amended to read as follows:

3 Section 17-101. A. It is a misdemeanor for any person to
4 violate any of the provisions of this title unless such violation is
5 by this title or other law of this state declared to be a felony.

6 B. 1. Every person convicted of a misdemeanor for a violation
7 of any of the provisions of Sections 10-101 through 14-121 or
8 Sections 16-101 through 16-114 of this title for which another
9 penalty is not provided shall upon conviction thereof be punished by
10 a fine of not less than Five Dollars (\$5.00) nor more than Five
11 Hundred Dollars (\$500.00) or by imprisonment for not more than ten
12 (10) days; for a second such conviction within one (1) year after
13 the first conviction by imprisonment for not more than twenty (20)
14 days; upon a third or subsequent conviction within one (1) year
15 after the first conviction by imprisonment for not more than six (6)
16 months, or by both such fine and imprisonment.

17 2. Any person violating the provisions of Sections 10-101
18 through 14-121 or Sections 16-101 through 16-114 of this title,
19 where a jail sentence is not mandatory may, in the discretion of the
20 district attorney wherein the offense occurred, be permitted to
21 enter a plea of guilty by written statement by the person charged to
22 be presented to the court wherein the case is filed. A remittance
23 covering the fine and costs may be considered and received with the
24 same force and effect as a written plea of guilty.

1 C. Unless another penalty is in this title or by the laws of
2 this state provided, every person convicted of a misdemeanor for the
3 violation of any other provision of this title shall be punished by
4 a fine of not less than Five Dollars (\$5.00) nor more than Five
5 Hundred Dollars (\$500.00), or by imprisonment for not more than six
6 (6) months, or by both such fine and imprisonment.

7 D. Provided, however, notwithstanding any provision of law to
8 the contrary, any offense, including traffic offenses, in violation
9 of any of the provisions of this title which is not otherwise
10 punishable by a term of imprisonment or confinement shall be
11 punishable by a term of imprisonment not to exceed one (1) day in
12 the discretion of the court, in addition to any fine prescribed by
13 law.

14 E. The conviction of any person, as prescribed in this section,
15 when the offense occurred during a period when the driving
16 privileges of the person were under suspension, revocation,
17 cancellation, denial, or disqualification or the person had not been
18 granted driving privileges by Oklahoma or any other state, shall
19 result in the doubling of the appropriate fine, as provided for in
20 subsections B and C of this section, and the doubling of all court
21 costs and all fees collected by the court on behalf of any other
22 entity, unless waived by the court.

23 ~~F. One-half (1/2) of any fine collected pursuant to the~~
24 ~~provisions of subsection E of this section, shall be deposited to~~

1 ~~the Trauma Care Assistance Revolving Fund created in Section 1-2522~~
2 ~~of Title 63 of the Oklahoma Statutes.~~

3 SECTION 18. AMENDATORY 47 O.S. 2021, Section 17-102, is
4 amended to read as follows:

5 Section 17-102. A. Any person who is convicted of a violation
6 of any of the provisions of the Uniform Vehicle Code declared by the
7 Code or by other laws of this state to constitute a felony except
8 those offenses specified in subsection A of Section 4-102 of this
9 title relating to unauthorized use of a vehicle and subsection A of
10 Section 4-103 of this title, relating to receiving or disposing of a
11 vehicle, shall be guilty of a felony and shall be punished by
12 imprisonment in the custody of the Department of Corrections for not
13 less than one (1) year nor more than five (5) years, or by a fine of
14 not less than Five Hundred Dollars (\$500.00) nor more than Five
15 Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

16 B. The conviction of any person, as prescribed in this section,
17 when the offense occurred during a period when the driving
18 privileges of the person were under suspension, revocation,
19 cancellation, denial, or disqualification or the person had not been
20 granted driving privileges by Oklahoma or any other state, shall
21 result in the doubling of the appropriate fine, as provided for in
22 subsection A of this section, and the doubling of all court costs
23 and all fees collected by the court on behalf of any other entity,
24 unless waived by the court.

1 ~~C. One half (1/2) of any fine collected pursuant to the~~
2 ~~provisions of subsection B of this section, shall be deposited to~~
3 ~~the Trauma Care Assistance Revolving Fund created in Section 1-2522~~
4 ~~of Title 63 of the Oklahoma Statutes.~~

5 SECTION 19. AMENDATORY 63 O.S. 2021, Section 2-401, is
6 amended to read as follows:

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

10 1. To distribute, dispense, transport with intent to distribute
11 or dispense, possess with intent to manufacture, distribute, or
12 dispense, a controlled dangerous substance or to solicit the use of
13 or use the services of a person less than eighteen (18) years of age
14 to cultivate, distribute or dispense a controlled dangerous
15 substance;

16 2. To create, distribute, transport with intent to distribute
17 or dispense, or possess with intent to distribute, a counterfeit
18 controlled dangerous substance; or

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

23 B. Any person who violates the provisions of this section with
24 respect to:

1 1. A substance classified in Schedule I or II, except for
2 marijuana, upon conviction, shall be guilty of transporting or
3 possessing with an intent to distribute a controlled dangerous
4 substance, a felony, and shall be sentenced to a term of
5 imprisonment in the custody of the Department of Corrections for not
6 more than seven (7) years and a fine of not more than One Hundred
7 Thousand Dollars (\$100,000.00), which shall be in addition to other
8 punishment provided by law and shall not be imposed in lieu of other
9 punishment. A second conviction for the violation of provisions of
10 this paragraph is a felony punishable by a term of imprisonment in
11 the custody of the Department of Corrections for not more than
12 fourteen (14) years. A third or subsequent conviction for the
13 violation of the provisions of this paragraph is a felony punishable
14 by a term of imprisonment in the custody of the Department of
15 Corrections for not more than twenty (20) years;

16 2. Any other controlled dangerous substance classified in
17 Schedule III, IV, V or marijuana, upon conviction, shall be guilty
18 of a felony and shall be sentenced to a term of imprisonment in the
19 custody of the Department of Corrections for not more than five (5)
20 years and a fine of not more than Twenty Thousand Dollars
21 (\$20,000.00), which shall be in addition to other punishment
22 provided by law and shall not be imposed in lieu of other
23 punishment. A second conviction for the violation of the provisions
24 of this paragraph is a felony punishable by a term of imprisonment

1 in the custody of the Department of Corrections for not more than
2 ten (10) years. A third or subsequent conviction for the violation
3 of the provisions of this paragraph is a felony punishable by a term
4 of imprisonment in the custody of the Department of Corrections for
5 not more than fifteen (15) years; or

6 3. An imitation controlled substance as defined by Section 2-
7 101 of this title, upon conviction, shall be guilty of a misdemeanor
8 and shall be sentenced to a term of imprisonment in the county jail
9 for a period of not more than one (1) year and a fine of not more
10 than One Thousand Dollars (\$1,000.00). A person convicted of a
11 second violation of the provisions of this paragraph shall be guilty
12 of a felony and shall be sentenced to a term of imprisonment in the
13 custody of the Department of Corrections for not more than two (2)
14 years and a fine of not more than Five Thousand Dollars (\$5,000.00),
15 which shall be in addition to other punishment provided by law and
16 shall not be imposed in lieu of other punishment.

17 C. 1. Except when authorized by the Food and Drug
18 Administration of the United States Department of Health and Human
19 Services, it shall be unlawful for any person to manufacture or
20 distribute a controlled substance or synthetic controlled substance.

21 2. Any person convicted of violating the provisions of
22 paragraph 1 of this subsection with respect to distributing a
23 controlled substance is guilty of a felony and shall be punished by
24 imprisonment in the custody of the Department of Corrections for a

1 term not to exceed ten (10) years and a fine of not more than
2 Twenty-five Thousand Dollars (\$25,000.00), which shall be in
3 addition to other punishment provided by law and shall not be
4 imposed in lieu of other punishment.

5 3. A second conviction for the violation of the provisions of
6 paragraph 1 of this subsection with respect to distributing a
7 controlled substance is a felony punishable by imprisonment in the
8 custody of the Department of Corrections for a term not less than
9 two (2) years nor more than twenty (20) years. A third or
10 subsequent conviction for the violation of the provisions of this
11 paragraph is a felony punishable by imprisonment in the custody of
12 the Department of Corrections for a term not less than ten (10)
13 years nor more than life.

14 4. Any person convicted of violating the provisions of
15 paragraph 1 of this subsection with respect to manufacturing a
16 controlled substance is guilty of a felony and shall be punished by
17 imprisonment in the custody of the Department of Corrections for a
18 term not to exceed ten (10) years and a fine of not more than
19 Twenty-five Thousand Dollars (\$25,000.00), which shall be in
20 addition to other punishment provided by law and shall not be
21 imposed in lieu of other punishment.

22 5. A second conviction for the violation of the provisions of
23 paragraph 1 of this subsection with respect to manufacturing a
24 controlled substance is a felony punishable by imprisonment in the

1 custody of the Department of Corrections for a term not less than
2 two (2) years nor more than twenty (20) years. A third or
3 subsequent conviction for the violation of the provisions of this
4 paragraph is a felony punishable by imprisonment in the custody of
5 the Department of Corrections for a term not less than ten (10)
6 years nor more than life.

7 D. Convictions for violations of the provisions of this section
8 shall be subject to the statutory provisions for suspended or
9 deferred sentences, or probation as provided in Section 991a of
10 Title 22 of the Oklahoma Statutes.

11 E. Any person who is at least eighteen (18) years of age and
12 who violates the provisions of this section by using or soliciting
13 the use of services of a person less than eighteen (18) years of age
14 to distribute, dispense, transport with intent to distribute or
15 dispense or cultivate a controlled dangerous substance or by
16 distributing a controlled dangerous substance to a person under
17 eighteen (18) years of age, or in the presence of a person under
18 twelve (12) years of age, is punishable by:

19 1. For a first violation of this section, a term of
20 imprisonment in the custody of the Department of Corrections not
21 less than two (2) years nor more than ten (10) years;

22 2. For a second violation of this section, a term of
23 imprisonment in the custody of the Department of Corrections for not
24 less than four (4) years nor more than twenty (20) years; or

1 3. For a third or subsequent violation of this section, a term
2 of imprisonment in the custody of the Department of Corrections for
3 not less than ten (10) years nor more than life.

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

15 1. For a first offense, a term of imprisonment in the custody
16 of the Department of Corrections, or by the imposition of a fine or
17 by both, not exceeding twice that authorized by the appropriate
18 provision of this section; or

19 2. For a second or subsequent violation of this section, a term
20 of imprisonment in the custody of the Department of Corrections, or
21 by the imposition of a fine or by both, not exceeding thrice that
22 authorized by the appropriate provision of this section.

23 Convictions for second and subsequent violations of the provisions
24

1 of this section shall not be subject to statutory provisions of
2 suspended sentences, deferred sentences or probation.

3 G. 1. Except as authorized by the Uniform Controlled Dangerous
4 Substances Act, it shall be unlawful for any person to manufacture
5 or attempt to manufacture any controlled dangerous substance or
6 possess any substance listed in Section 2-322 of this title or any
7 substance containing any detectable amount of pseudoephedrine or its
8 salts, optical isomers or salts of optical isomers, iodine or its
9 salts, optical isomers or salts of optical isomers, hydriodic acid,
10 sodium metal, lithium metal, anhydrous ammonia, phosphorus, or
11 organic solvents with the intent to use that substance to
12 manufacture a controlled dangerous substance.

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

1 3. Any person violating the provisions of this subsection with
2 respect to the unlawful manufacturing or attempting to unlawfully
3 manufacture any controlled dangerous substance in the following
4 amounts:

5 a. one (1) kilogram or more of a mixture or substance
6 containing a detectable amount of heroin,

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

9 (1) coca leaves, except coca leaves and extracts of
10 coca leaves from which cocaine, ecgonine, and
11 derivatives of ecgonine or their salts have been
12 removed,

13 (2) cocaine, its salts, optical and geometric
14 isomers, and salts of isomers,

15 (3) ecgonine, its derivatives, their salts, isomers,
16 and salts of isomers, or

17 (4) any compound, mixture, or preparation which
18 contains any quantity of any of the substances
19 referred to in divisions (1) through (3) of this
20 subparagraph,

21 c. fifty (50) grams or more of a mixture or substance
22 described in division (2) of subparagraph b of this
23 paragraph which contains cocaine base,
24

- d. one hundred (100) grams or more of phencyclidine (PCP) or 1 kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP),
- e. ten (10) grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD),
- f. four hundred (400) grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 100 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide,
- g. one thousand (1,000) kilograms or more of a mixture or substance containing a detectable amount of ~~marihuana~~ marijuana or one thousand (1,000) or more ~~marihuana~~ marijuana plants regardless of weight, or
- h. fifty (50) grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers,

upon conviction, is guilty of aggravated manufacturing a controlled dangerous substance punishable by imprisonment for not less than twenty (20) years nor more than life and by a fine of not less than

1 Fifty Thousand Dollars (\$50,000.00), which shall be in addition to
2 other punishment provided by law and shall not be imposed in lieu of
3 other punishment. Any person convicted of a violation of the
4 provisions of this paragraph shall be required to serve a minimum of
5 eighty-five percent (85%) of the sentence received prior to becoming
6 eligible for state correctional earned credits towards the
7 completion of the sentence or eligible for parole.

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

18 5. Any person who has been convicted of manufacturing or
19 attempting to manufacture methamphetamine pursuant to the provisions
20 of this subsection and who, after such conviction, purchases or
21 attempts to purchase, receive or otherwise acquire any product,
22 mixture, or preparation containing any detectable quantity of base
23 pseudoephedrine or ephedrine shall, upon conviction, be guilty of a
24 felony punishable by imprisonment in the custody of the Department

1 of Corrections for a term in the range of twice the minimum term
2 provided for in paragraph 2 of this subsection.

3 H. Any person convicted of any offense described in the Uniform
4 Controlled Dangerous Substances Act may, in addition to the fine
5 imposed, be assessed an amount not to exceed ten percent (10%) of
6 the fine imposed. Such assessment shall be paid into a revolving
7 fund for enforcement of controlled dangerous substances created
8 pursuant to Section 2-506 of this title.

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

14 ~~J.~~ For purposes of this section, "public housing project" means
15 any dwelling or accommodations operated as a state or federally
16 subsidized multifamily housing project by any housing authority,
17 nonprofit corporation or municipal developer or housing projects
18 created pursuant to the Oklahoma Housing Authorities Act.

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

1 ~~H.~~ K. Any person convicted of a second or subsequent felony
2 violation of the provisions of this section, except for paragraphs 1
3 and 2 of subsection B of this section, paragraphs 2, 3, 4 and 5 of
4 subsection C of this section, paragraphs 1, 2, and 3 of subsection E
5 of this section and paragraphs 1 and 2 of subsection F of this
6 section, shall be punished as a habitual offender pursuant to
7 Section 51.1 of Title 21 of the Oklahoma Statutes.

8 SECTION 20. AMENDATORY 63 O.S. 2021, Section 2-402, is
9 amended to read as follows:

10 Section 2-402. A. 1. It shall be unlawful for any person
11 knowingly or intentionally to possess a controlled dangerous
12 substance unless such substance was obtained directly, or pursuant
13 to a valid prescription or order from a practitioner, while acting
14 in the course of his or her professional practice, or except as
15 otherwise authorized by this act.

16 2. It shall be unlawful for any person to purchase any
17 preparation excepted from the provisions of the Uniform Controlled
18 Dangerous Substances Act pursuant to Section 2-313 of this title in
19 an amount or within a time interval other than that permitted by
20 Section 2-313 of this title.

21 3. It shall be unlawful for any person or business to sell,
22 market, advertise or label any product containing ephedrine, its
23 salts, optical isomers, or salts of optical isomers, for the
24 indication of stimulation, mental alertness, weight loss, appetite

1 control, muscle development, energy or other indication which is not
2 approved by the pertinent federal OTC Final Monograph, Tentative
3 Final Monograph, or FDA-approved new drug application or its legal
4 equivalent. In determining compliance with this requirement, the
5 following factors shall be considered:

- 6 a. the packaging of the product,
- 7 b. the name of the product, and
- 8 c. the distribution and promotion of the product,
9 including verbal representations made at the point of
10 sale.

11 B. Any person who violates this section with respect to:

12 1. Any Schedule I or II substance, except marijuana or a
13 substance included in subsection D of Section 2-206 of this title,
14 is guilty of a felony punishable by imprisonment for not more than
15 five (5) years and by a fine not exceeding Five Thousand Dollars
16 (\$5,000.00). A second violation of this section with respect to a
17 Schedule I or II substance, except marijuana or a substance included
18 in subsection D of Section 2-206 of this title, is a felony
19 punishable by imprisonment for not more than ten (10) years and by a
20 fine not exceeding Ten Thousand Dollars (\$10,000.00). A third or
21 subsequent violation of this section with respect to a Schedule I or
22 II substance, except marijuana or a substance included in subsection
23 D of Section 2-206 of this title, is a felony punishable by
24 imprisonment for not less than four (4) years nor more than fifteen

1 (15) years and by a fine not exceeding Ten Thousand Dollars
2 (\$10,000.00);

3 2. Any Schedule III, IV or V substance, marijuana, a substance
4 included in subsection D of Section 2-206 of this title, or any
5 preparation excepted from the provisions of the Uniform Controlled
6 Dangerous Substances Act is guilty of a misdemeanor punishable by
7 confinement for not more than one (1) year and by a fine not
8 exceeding One Thousand Dollars (\$1,000.00);

9 3. Any Schedule III, IV or V substance, marijuana, a substance
10 included in subsection D of Section 2-206 of this title, or any
11 preparation excepted from the provisions of the Uniform Controlled
12 Dangerous Substances Act and who, during the period of any court-
13 imposed probationary term or within ten (10) years of the date
14 following the completion of the execution of any sentence or
15 deferred judgment for a violation of this section, commits a second
16 or subsequent violation of this section shall, upon conviction, be
17 guilty of a felony punishable by imprisonment in the custody of the
18 Department of Corrections for not less than one (1) year nor more
19 than five (5) years and by a fine not exceeding Five Thousand
20 Dollars (\$5,000.00); or

21 4. Any Schedule III, IV or V substance, marijuana, a substance
22 included in subsection D of Section 2-206 of this title, or any
23 preparation excepted from the provisions of the Uniform Controlled
24 Dangerous Substances Act and who, ten (10) or more years following

1 the date of completion of the execution of any sentence or deferred
2 judgment for a violation of this section, commits a second or
3 subsequent violation of this section shall, upon conviction, be
4 guilty of a felony punishable by imprisonment in the custody of the
5 Department of Corrections for not less than one (1) year nor more
6 than five (5) years and by a fine not exceeding Five Thousand
7 Dollars (\$5,000.00).

8 C. Any person who violates any provision of this section by
9 possessing or purchasing a controlled dangerous substance from any
10 person, in or on, or within one thousand (1,000) feet of the real
11 property comprising a public or private elementary or secondary
12 school, public vocational school, public or private college or
13 university, or other institution of higher education, recreation
14 center or public park, including state parks and recreation areas,
15 or in the presence of any child under twelve (12) years of age,
16 shall be guilty of a felony and punished by:

17 1. For a first offense, a term of imprisonment, or by the
18 imposition of a fine, or by both, not exceeding twice that
19 authorized by the appropriate provision of this section. In
20 addition, the person shall serve a minimum of fifty percent (50%) of
21 the sentence received prior to becoming eligible for state
22 correctional institution earned credits toward the completion of
23 said sentence; or
24

1 2. For a second or subsequent offense, a term of imprisonment
2 not exceeding three times that authorized by the appropriate
3 provision of this section and the person shall serve a minimum of
4 ninety percent (90%) of the sentence received prior to becoming
5 eligible for state correctional institution earned credits toward
6 the completion of said sentence, and imposition of a fine not
7 exceeding Ten Thousand Dollars (\$10,000.00).

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

13 SECTION 21. AMENDATORY 63 O.S. 2021, Section 2-404, is
14 amended to read as follows:

15 Section 2-404. A. It shall be unlawful for any person:

16 1. Who is subject to the requirements of Article III of this
17 act to distribute or dispense a controlled dangerous substance in
18 violation of Section 2-308 of this title;

19 2. Who is a registrant to manufacture, distribute, or dispense
20 a controlled dangerous substance not authorized by his registration
21 to another registrant or other authorized person;

22 3. To omit, remove, alter, or obliterate a symbol required by
23 the Federal Controlled Substances Act or this act;

1 4. To refuse or fail to make, keep, or furnish any record,
2 notification, order form, statement, invoice, or information
3 required under this act;

4 5. To refuse any entry into any premises or inspection
5 authorized by this act; or

6 6. To keep or maintain any store, shop, warehouse, dwelling
7 house, building, vehicle, boat, aircraft, or any place whatever,
8 which is resorted to by persons using controlled dangerous
9 substances in violation of this act for the purpose of using such
10 substances, or which is used for the keeping or selling of the same
11 in violation of this act.

12 B. Any person who violates this section is punishable by a
13 civil fine of not more than One Thousand Dollars (\$1,000.00);
14 provided, that, if the violation is prosecuted by an information or
15 indictment which alleges that the violation was committed knowingly
16 or intentionally, and the trier of fact specifically finds that the
17 violation was committed knowingly or intentionally, such person is
18 guilty of a felony punishable by imprisonment for not more than five
19 (5) years, and a fine of not more than Ten Thousand Dollars
20 (\$10,000.00), except that if such person is a corporation it shall
21 be subject to a civil penalty of not more than One Hundred Thousand
22 Dollars (\$100,000.00). The fine provided for in this subsection
23 shall be in addition to other punishments provided by law and shall
24 not be in lieu of other punishment.

1 C. Any person convicted of a second or subsequent violation of
2 this section is punishable by a term of imprisonment twice that
3 otherwise authorized and by twice the fine otherwise authorized.
4 The fine provided for in this subsection shall be in addition to
5 other punishments provided by law and shall not be in lieu of other
6 punishment.

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

12 SECTION 22. AMENDATORY 63 O.S. 2021, Section 2-405, is
13 amended to read as follows:

14 Section 2-405. A. No person shall use tincture of opium,
15 tincture of opium camphorated, or any derivative thereof, by the
16 hypodermic method, either with or without a medical prescription
17 therefor.

18 B. No person shall use drug paraphernalia to plant, propagate,
19 cultivate, grow, harvest, manufacture, compound, convert, produce,
20 process, prepare, test, analyze, pack, repack, store, contain,
21 conceal, inject, ingest, inhale or otherwise introduce into the
22 human body a controlled dangerous substance in violation of the
23 Uniform Controlled Dangerous Substances Act, except those persons
24 holding an unrevoked license in the professions of podiatry,

1 dentistry, medicine, nursing, optometry, osteopathy, veterinary
2 medicine or pharmacy.

3 C. No person shall deliver, sell, possess or manufacture drug
4 paraphernalia knowing, or under circumstances where one reasonably
5 should know, that it will be used to plant, propagate, cultivate,
6 grow, harvest, manufacture, compound, convert, produce, process,
7 prepare, test, analyze, pack, repack, store, contain, conceal,
8 inject, ingest, inhale or otherwise introduce into the human body a
9 controlled dangerous substance in violation of the Uniform
10 Controlled Dangerous Substances Act.

11 D. Any person eighteen (18) years of age or over who violates
12 subsection C of this section by delivering or selling drug
13 paraphernalia to a person under eighteen (18) years of age shall,
14 upon conviction, be guilty of a felony.

15 E. Any person who violates ~~subsections~~ subsection A, B or C of
16 this section shall, upon conviction, be guilty of a misdemeanor
17 punishable as follows:

18 1. For a first offense the person shall be punished by
19 imprisonment in the county jail for not more than one (1) year or by
20 a fine of not more than One Thousand Dollars (\$1,000.00), or both
21 such fine and imprisonment;

22 2. For a second offense the person shall be punished by
23 imprisonment in the county jail for not more than one (1) year or by
24

1 a fine of not more than Five Thousand Dollars (\$5,000.00), or both
2 such fine and imprisonment; and

3 3. For a third or subsequent offense the person shall be
4 punished by imprisonment in the county jail for not more than one
5 (1) year or by a fine of not more than Ten Thousand Dollars
6 (\$10,000.00), or both such fine and imprisonment.

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

12 SECTION 23. AMENDATORY 63 O.S. 2021, Section 2-406, is
13 amended to read as follows:

14 Section 2-406. A. It shall be unlawful for any registrant
15 knowingly or intentionally:

16 1. To distribute, other than by dispensing or as otherwise
17 authorized by this act, a controlled dangerous substance classified
18 in Schedules I or II, in the course of his legitimate business,
19 except pursuant to an order form as required by Section 2-308 of
20 this title;

21 2. To use in the course of the manufacture or distribution of a
22 controlled dangerous substance a registration number which is
23 fictitious, revoked, suspended or issued to another person;

1 3. To acquire or obtain possession of a controlled dangerous
2 substance by misrepresentation, fraud, forgery, deception or
3 subterfuge;

4 4. To furnish false or fraudulent material information in, or
5 omit any material information from, any application, report, or
6 other document required to be kept or filed under this act, or any
7 record required to be kept by this act; and

8 5. To make, distribute, or possess any punch, die, plate,
9 stone, or other thing designed to print, imprint, or reproduce the
10 trademark, trade name, or other identifying mark, imprint, or device
11 of another or any likeness of any of the foregoing upon any drug or
12 container or labeling thereof so as to render such drug a
13 counterfeit controlled dangerous substance.

14 B. Any person who violates this section is guilty of a felony
15 punishable by imprisonment for not more than twenty (20) years or a
16 fine of not more than Two Hundred Fifty Thousand Dollars
17 (\$250,000.00), or both.

18 C. Any person convicted of a second or subsequent violation of
19 this section is punishable by a term of imprisonment twice that
20 otherwise authorized and by twice the fine otherwise authorized.
21 Convictions for second or subsequent violations of this section
22 shall not be subject to statutory provisions for suspended
23 sentences, deferred sentences, or probation.

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

6 SECTION 24. AMENDATORY 63 O.S. 2021, Section 2-407, is
7 amended to read as follows:

8 Section 2-407. A. No person shall obtain or attempt to obtain
9 any preparation excepted from the provisions of the Uniform
10 Controlled Dangerous Substances Act pursuant to Section 2-313 of
11 this title in a manner inconsistent with the provisions of paragraph
12 1 of subsection B of Section 2-313 of this title, or a controlled
13 dangerous substance or procure or attempt to procure the
14 administration of a controlled dangerous substance:

15 1. By fraud, deceit, misrepresentation, or subterfuge;

16 2. By the forgery of, alteration of, adding any information to
17 or changing any information on a prescription or of any written
18 order;

19 3. By the concealment of a material fact;

20 4. By the use of a false name or the giving of a false address;
21 or

22 5. By knowingly failing to disclose the receipt of a controlled
23 dangerous substance or a prescription for a controlled dangerous
24

1 substance of the same or similar therapeutic use from another
2 practitioner within the previous thirty (30) days.

3 B. Except as authorized by this act, a person shall not
4 manufacture, create, deliver, or possess with intent to manufacture,
5 create, or deliver or possess a prescription form, an original
6 prescription form, or a counterfeit prescription form. This shall
7 not apply to the legitimate manufacture or delivery of prescription
8 forms, or a person acting as an authorized agent of the
9 practitioner.

10 C. Information communicated to a physician in an effort
11 unlawfully to procure a controlled dangerous substance, or
12 unlawfully to procure the administration of any such drug, shall not
13 be deemed a privileged communication.

14 D. Any person who violates this section is guilty of a felony
15 punishable by imprisonment for not more than ten (10) years, by a
16 fine of not more than Ten Thousand Dollars (\$10,000.00), or by both
17 such fine and imprisonment. A second or subsequent offense under
18 this section is a felony punishable by imprisonment for not less
19 than four (4) years nor more than twenty (20) years, by a fine of
20 not more than Twenty Thousand Dollars (\$20,000.00), or by both such
21 fine and imprisonment.

22 E. Convictions for second or subsequent violations of this
23 section shall not be subject to statutory provisions for suspended
24 sentences, deferred sentences, or probation.

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

6 SECTION 25. AMENDATORY 63 O.S. 2021, Section 2-407.1, is
7 amended to read as follows:

8 Section 2-407.1 A. For the purpose of inducing intoxication or
9 distortion or disturbance of the auditory, visual, muscular, or
10 mental process, no person shall ingest, use, or possess any
11 compound, liquid, or chemical which contains ethylchloride, butyl
12 nitrite, isobutyl nitrite, secondary butyl nitrite, tertiary butyl
13 nitrite, amyl nitrite, isopropyl nitrite, isopentyl nitrite, or
14 mixtures containing butyl nitrite, isobutyl nitrite, secondary butyl
15 nitrite, tertiary butyl nitrite, amyl nitrite, isopropyl nitrite,
16 isopentyl nitrite, or any of their esters, isomers, or analogues, or
17 any other similar compound.

18 B. No person shall possess, buy, sell, or otherwise transfer
19 any substance specified in subsection A of this section for the
20 purpose of inducing or aiding any other person to inhale or ingest
21 such substance or otherwise violate the provisions of this section.

22 C. The provisions of subsections A and B of this section shall
23 not apply to:
24

1 1. The possession and use of a substance specified in
2 subsection A of this section which is used as part of the care or
3 treatment by a licensed physician of a disease, condition or injury
4 or pursuant to a prescription of a licensed physician; and

5 2. The possession of a substance specified in subsection A of
6 this section which is used as part of a known manufacturing process
7 or industrial operation when the possessor has obtained a permit
8 from the State Department of Health.

9 D. The State Board of Health shall promulgate rules and
10 regulations establishing procedures for the application, form and
11 issuance of a permit to legitimate manufacturing and industrial
12 applicants as provided for in subsection C of this section.

13 E. Any person convicted of violating any provision of
14 subsection A or B of this section shall be guilty of a misdemeanor
15 punishable by imprisonment in the county jail not to exceed ninety
16 (90) days or by the imposition of a fine not to exceed Five Hundred
17 Dollars (\$500.00), or by both such imprisonment and fine. Each
18 violation shall be considered a separate offense.

19 ~~F. Any person convicted of any offense described in this~~
20 ~~section shall, in addition to any fine imposed, pay a special~~
21 ~~assessment trauma-care fee of One Hundred Dollars (\$100.00) to be~~
22 ~~deposited into the Trauma Care Assistance Revolving Fund created in~~
23 ~~Section 1-2522 of this title.~~

1 SECTION 26. AMENDATORY 63 O.S. 2021, Section 2-415, is
2 amended to read as follows:

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

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

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

- 22 1. Knowingly distribute, manufacture, bring into this state or
23 possess a controlled substance specified in subsection A of this
24 section in the quantities specified in subsection C of this section;

1 2. Possess any controlled substance with the intent to
2 manufacture a controlled substance specified in subsection A of this
3 section in quantities specified in subsection C of this section; or

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

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

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

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

21 1. Marijuana:

22 a. twenty-five (25) pounds or more of a mixture or
23 substance containing a detectable amount of marijuana
24 shall be punishable by a fine of not less than Twenty-

1 five Thousand Dollars (\$25,000.00) and not more than
2 One Hundred Thousand Dollars (\$100,000.00), or
3 b. one thousand (1,000) pounds or more of a mixture or
4 substance containing a detectable amount of marijuana
5 shall be deemed aggravated trafficking punishable by a
6 fine of not less than One Hundred Thousand Dollars
7 (\$100,000.00) and not more than Five Hundred Thousand
8 Dollars (\$500,000.00);

9 2. Cocaine, coca leaves or cocaine base:

10 a. twenty-eight (28) grams or more of a mixture or
11 substance containing a detectable amount of cocaine,
12 coca leaves or cocaine base shall be punishable by a
13 fine of not less than Twenty-five Thousand Dollars
14 (\$25,000.00) and not more than One Hundred Thousand
15 Dollars (\$100,000.00),

16 b. three hundred (300) grams or more of a mixture or
17 substance containing a detectable amount of cocaine,
18 coca leaves or cocaine base shall be punishable by a
19 fine of not less than One Hundred Thousand Dollars
20 (\$100,000.00) and not more than Five Hundred Thousand
21 Dollars (\$500,000.00), or

22 c. four hundred fifty (450) grams or more of a mixture or
23 substance containing a detectable amount of cocaine,
24 coca leaves or cocaine base shall be deemed aggravated

1 trafficking punishable by a fine of not less than One
2 Hundred Thousand Dollars (\$100,000.00) and not more
3 than Five Hundred Thousand Dollars (\$500,000.00);

4 3. Heroin:

- 5 a. ten (10) grams or more of a mixture or substance
6 containing a detectable amount of heroin shall be
7 punishable by a fine of not less than Twenty-five
8 Thousand Dollars (\$25,000.00) and not more than Fifty
9 Thousand Dollars (\$50,000.00), or
10 b. twenty-eight (28) grams or more of a mixture or
11 substance containing a detectable amount of heroin
12 shall be deemed aggravated trafficking punishable by a
13 fine of not less than Fifty Thousand Dollars
14 (\$50,000.00) and not more than Five Hundred Thousand
15 Dollars (\$500,000.00);

16 4. Amphetamine or methamphetamine:

- 17 a. twenty (20) grams or more of a mixture or substance
18 containing a detectable amount of amphetamine or
19 methamphetamine shall be punishable by a fine of not
20 less than Twenty-five Thousand Dollars (\$25,000.00)
21 and not more than Two Hundred Thousand Dollars
22 (\$200,000.00),
23 b. two hundred (200) grams or more of a mixture or
24 substance containing a detectable amount of

1 amphetamine or methamphetamine shall be punishable by
2 a fine of not less than Fifty Thousand Dollars
3 (\$50,000.00) and not more than Five Hundred Thousand
4 Dollars (\$500,000.00), or

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

11 5. Lysergic acid diethylamide (LSD):

- 12 a. one (1) gram or more of a mixture or substance
13 containing a detectable amount of lysergic acid
14 diethylamide (LSD) shall be trafficking punishable by
15 a term of imprisonment in the custody of the
16 Department of Corrections not to exceed twenty (20)
17 years and by a fine of not less than Fifty Thousand
18 Dollars (\$50,000.00) and not more than One Hundred
19 Thousand Dollars (\$100,000.00), or
- 20 b. ten (10) grams or more of a mixture or substance
21 containing a detectable amount of lysergic acid
22 diethylamide (LSD) shall be aggravated trafficking
23 punishable by a term of imprisonment in the custody of
24 the Department of Corrections of not less than two (2)

1 years nor more than life and by a fine of not less
2 than One Hundred Thousand Dollars (\$100,000.00) and
3 not more than Two Hundred Fifty Thousand Dollars
4 (\$250,000.00);

5 6. Phencyclidine (PCP):

6 a. twenty (20) grams or more of a substance containing a
7 mixture or substance containing a detectable amount of
8 phencyclidine (PCP) shall be trafficking punishable by
9 a term of imprisonment in the custody of the
10 Department of Corrections not to exceed twenty (20)
11 years and by a fine of not less than Twenty Thousand
12 Dollars (\$20,000.00) and not more than Fifty Thousand
13 Dollars (\$50,000.00), or

14 b. one hundred fifty (150) grams or more of a substance
15 containing a mixture or substance containing a
16 detectable amount of phencyclidine (PCP) shall be
17 aggravated trafficking punishable by a term of
18 imprisonment in the custody of the Department of
19 Corrections of not less than two (2) years nor more
20 than life and by a fine of not less than Fifty
21 Thousand Dollars (\$50,000.00) and not more than Two
22 Hundred Fifty Thousand Dollars (\$250,000.00);

23 7. Methylenedioxy methamphetamine:
24

- 1 a. thirty (30) tablets or ten (10) grams of a mixture or
2 substance containing a detectable amount of 3,4-
3 Methylenedioxy methamphetamine shall be trafficking
4 punishable by a term of imprisonment in the custody of
5 the Department of Corrections not to exceed twenty
6 (20) years and by a fine of not less than Twenty-five
7 Thousand Dollars (\$25,000.00) and not more than One
8 Hundred Thousand Dollars (\$100,000.00), or
9 b. one hundred (100) tablets or thirty (30) grams of a
10 mixture or substance containing a detectable amount of
11 3,4-Methylenedioxy methamphetamine shall be deemed
12 aggravated trafficking punishable by a term of
13 imprisonment in the custody of the Department of
14 Corrections of not less than two (2) years nor more
15 than life by a fine of not less than One Hundred
16 Thousand Dollars (\$100,000.00) and not more than Five
17 Hundred Thousand Dollars (\$500,000.00);

18 8. Morphine: One thousand (1,000) grams or more of a mixture
19 containing a detectable amount of morphine shall be trafficking
20 punishable by a term of imprisonment in the custody of the
21 Department of Corrections not to exceed twenty (20) years and by a
22 fine of not less than One Hundred Thousand Dollars (\$100,000.00) and
23 not more than Five Hundred Thousand Dollars (\$500,000.00);
24

1 9. Oxycodone: Four hundred (400) grams or more of a mixture
2 containing a detectable amount of oxycodone shall be trafficking
3 punishable by a term of imprisonment in the custody of the
4 Department of Corrections not to exceed twenty (20) years and by a
5 fine of not less than One Hundred Thousand Dollars (\$100,000.00) and
6 not more than Five Hundred Thousand Dollars (\$500,000.00);

7 10. Hydrocodone: Three thousand seven hundred fifty (3,750)
8 grams or more of a mixture containing a detectable amount of
9 hydrocodone shall be trafficking punishable by a term of
10 imprisonment in the custody of the Department of Corrections not to
11 exceed twenty (20) years and by a fine of not less than One Hundred
12 Thousand Dollars (\$100,000.00) and not more than Five Hundred
13 Thousand Dollars (\$500,000.00);

14 11. Benzodiazepine: Five hundred (500) grams or more of a
15 mixture containing a detectable amount of benzodiazepine shall be
16 trafficking punishable by a term of imprisonment not to exceed
17 twenty (20) years and by a fine of not less than One Hundred
18 Thousand Dollars (\$100,000.00) and not more than Five Hundred
19 Thousand Dollars (\$500,000.00); and

20 12. Fentanyl and its analogs and derivatives:

21 a. one (1) gram or more of a mixture containing fentanyl
22 or carfentanil, or any fentanyl analogs or derivatives
23 shall be trafficking punishable by a term of
24 imprisonment in the custody of the Department of

1 Corrections not to exceed twenty (20) years and by a
2 fine of not less than One Hundred Thousand Dollars
3 (\$100,000.00) and not more than Two Hundred Fifty
4 Thousand Dollars (\$250,000.00), or

5 b. five (5) grams or more of a mixture containing
6 fentanyl or carfentanil, or any fentanyl analogs or
7 derivatives shall be aggravated trafficking punishable
8 by a term of imprisonment in the custody of the
9 Department of Corrections of not less than two (2)
10 years nor more than life and by a fine of not less
11 than Two Hundred Fifty Thousand Dollars (\$250,000.00)
12 and not more than Five Hundred Thousand Dollars
13 (\$500,000.00).

14 D. Any person who violates the provisions of this section with
15 respect to marijuana, cocaine, coca leaves, cocaine base, heroin,
16 amphetamine or methamphetamine in a quantity specified in paragraphs
17 1, 2, 3 and 4 of subsection C of this section shall, in addition to
18 any fines specified by this section, be punishable by a term of
19 imprisonment as follows:

20 1. For trafficking, a first violation of this section, a term
21 of imprisonment in the custody of the Department of Corrections not
22 to exceed twenty (20) years;

23 2. For trafficking, a second violation of this section, a term
24 of imprisonment in the Department of Corrections of not less than

1 four (4) years nor more than life, for which the person shall serve
2 fifty percent (50%) of the sentence before being eligible for parole
3 consideration;

4 3. For trafficking, a third or subsequent violation of this
5 section, a term of imprisonment in the custody of the Department of
6 Corrections of not less than twenty (20) years nor more than life,
7 of which the person shall serve fifty percent (50%) of the sentence
8 before being eligible for parole consideration.

9 Persons convicted of trafficking shall not be eligible for
10 earned credits or any other type of credits which have the effect of
11 reducing the length of sentence to less than fifty percent (50%) of
12 the sentence imposed; and

13 If the person is convicted of aggravated trafficking, the person
14 shall serve eighty-five percent (85%) of such sentence before being
15 eligible for parole consideration.

16 E. The penalties specified in subsections C and D of this
17 section are subject to the enhancements enumerated in subsections E
18 and F of Section 2-401 of this title.

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

1 SECTION 27. AMENDATORY 63 O.S. 2021, Section 2-902, is
2 amended to read as follows:

3 Section 2-902. A. Subject to the provisions of this act, the
4 district attorney may enter into a written agreement with the
5 defendant pursuant to the provisions of Sections 305.1 through 305.6
6 of Title 22 of the Oklahoma Statutes to defer prosecution of a
7 charge for possession of a controlled dangerous substance,
8 possession of drug paraphernalia or both possession of a controlled
9 dangerous substance and possession of drug paraphernalia for a
10 period to be determined by the district attorney, not to exceed
11 twenty-four (24) months.

12 B. ~~The defendant shall pay to the district attorney a fee equal~~
13 ~~to the amount which would have been assessed as court costs upon~~
14 ~~filing of the case in district court. Funds received by the~~
15 ~~district attorney pursuant to this act shall be deposited in a~~
16 ~~special fund with the county treasurer to be known as the "Drug~~
17 ~~Possession Diversion Program Fund". This fund shall be used by the~~
18 ~~district attorney to defray any lawful expense of the office of the~~
19 ~~district attorney. The district attorney shall keep records of all~~
20 ~~monies deposited to and disbursed from this fund. The records of~~
21 ~~the fund shall be audited at the same time the records of county~~
22 ~~funds are audited.~~

23 C. Unless the agreement between the defendant and the district
24 attorney provides otherwise, the defendant shall be supervised in

1 the community by the district attorney or by a private supervision
2 program pursuant to the provisions of subsection A of Section 991d
3 of Title 22 of the Oklahoma Statutes.

4 SECTION 28. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 1671 of Title 20, unless there
6 is created a duplication in numbering, reads as follows:

7 As used in this act:

8 1. "Attorney" means a person admitted to practice law before
9 the courts of this state;

10 2. "Election-year evaluation" means a judicial performance
11 evaluation conducted by the Office of Judicial Performance
12 Evaluation pursuant to Section 33 of this act of a Justice or judge
13 whose term is to expire and who must stand for reelection or
14 retention election;

15 3. "Improvement plan" means an individual judicial improvement
16 plan developed and implemented pursuant to Section 34 of this act;

17 4. "Initial evaluation" and "interim evaluation" mean
18 evaluations conducted by the Office of Judicial Performance
19 Evaluation pursuant to Section 32 of this act of a Justice or judge;

20 5. "Judge" means all active district judges, associate district
21 judges, special judges, Judges of the Oklahoma Court of Criminal
22 Appeals, and Judges of the Oklahoma Court of Civil Appeals; and

23 6. "Justice" means a Justice of the Oklahoma Supreme Court.
24

1 SECTION 29. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1672 of Title 20, unless there
3 is created a duplication in numbering, reads as follows:

4 A. There is hereby created within the Council on Judicial
5 Complaints the Office of Judicial Performance Evaluation and the
6 Board of Judicial Performance Evaluation. The purpose of the Office
7 and the Board shall be to:

8 1. Provide Justices and judges with useful information
9 concerning their own performances; and

10 2. Conduct statewide judicial performance evaluations using
11 uniform criteria and procedures pursuant to the provisions of this
12 act.

13 B. 1. The Office of Judicial Performance Evaluation shall
14 present completed performance evaluations and recommendations to the
15 Board of Judicial Performance Evaluation which shall consist of nine
16 (9) members, only five of whom shall be members of the Bar of the
17 State of Oklahoma and only five of whom shall constitute a quorum.
18 Three members shall be appointed by the Speaker of the Oklahoma
19 House of Representatives; three members shall be appointed by the
20 President Pro Tempore of the Oklahoma State Senate; and three
21 members shall be appointed by the Governor. No more than five
22 members of the Board shall be, or shall have been in the previous
23 six (6) months, members of the same political party. Appointments
24 may include retired judicial officers, but shall not include members

1 of the Council on Judicial Complaints or Judicial Nominating
2 Commission.

3 2. Of the members first appointed to the Board of Judicial
4 Performance Evaluation, three shall serve for three (3) years and
5 until a successor is appointed and qualified; three shall serve for
6 four (4) years and until a successor is appointed and qualified; and
7 three shall serve for five (5) years and until a successor is
8 appointed and qualified. The respective terms of the first members
9 shall be determined by lot at the first meeting of the Board, and
10 the results thereof shall be certified to the Secretary of State and
11 to the appointing authority for each individual member. Thereafter,
12 each appointee shall serve for a term of five (5) years and until a
13 successor is appointed and qualified. No person shall be eligible
14 to serve more than two terms on the Board.

15 3. The members of the Board of Judicial Performance Evaluation
16 shall receive for their services the sum of One Hundred Dollars
17 (\$100.00) for each day, or fraction thereof, of attendance at its
18 meetings or other official business of the Board, and reimbursement
19 for travel expenses pursuant to the State Travel Reimbursement Act.

20 C. All expenses of the Office of Judicial Performance
21 Evaluation shall be approved by the Chair of the Council on Judicial
22 Complaints, by the Council on Judicial Complaints upon a majority
23 vote of its members, or by the Administrative Director to the
24

1 Council on Judicial Complaints as directed by the Chair of the
2 Council on Judicial Complaints.

3 D. Meetings of the Board of Judicial Performance Evaluation
4 convened for the purpose of conducting, discussing, or deliberating
5 any matter relating to performance evaluations or improvement plans
6 are confidential and are not subject to the Oklahoma Open Meeting
7 Act.

8 E. Records of the Office of Judicial Performance Evaluation
9 created for the purpose of or in furtherance of summarizing,
10 drafting, conducting, discussing, or deliberating any matter
11 relating to an election-year evaluation, improvement plan, or
12 interim evaluation are confidential and are not subject to
13 disclosure under the Oklahoma Open Records Act.

14 F. There is hereby created the position of Administrator to the
15 Office of Judicial Performance Evaluation who shall be a state
16 employee hired by the Administrative Director to the Council on
17 Judicial Complaints. The Administrator, operations, and staffing of
18 the Office shall be overseen by the Administrative Director to the
19 Council on Judicial Complaints.

20 G. The Administrator shall notify the members of the Board of
21 Judicial Performance Evaluation of the number of completed
22 performance evaluations ready for review and consideration by the
23 Board five (5) days before the Board's regular meeting. The
24 Administrator shall attend meetings of the Board concerning

1 performance evaluations and business of the Office, keep records
2 concerning performance evaluations, prepare reports required by
3 statute, and perform other tasks as the Council shall direct.

4 SECTION 30. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 1673 of Title 20, unless there
6 is created a duplication in numbering, reads as follows:

7 A. The Office of Judicial Performance Evaluation shall:

8 1. Train members of the Board of Judicial Performance
9 Evaluation as needed and requested to fulfil the duties established
10 pursuant to Section 37 of this act;

11 2. Collect and disseminate data on judicial performance
12 evaluations, including judicial performance surveys developed,
13 collected, and distributed pursuant to paragraph 5 of subsection B
14 of this section; and

15 3. Perform other tasks as the Board of Judicial Performance
16 Evaluation or the Council on Judicial Complaints shall direct.

17 B. The Office of Judicial Performance Evaluation shall have the
18 following powers and duties:

19 1. Review any available case management data and statistics
20 related to individual Justices and judges;

21 2. Review written judicial opinions and orders authorized by
22 Justices and judges;

23 3. Interview Justices and judges under the Board of Judicial
24 Performance Evaluation's oversight;

1 4. Accept information and documentation from interested persons
2 as necessary;

3 5. Develop surveys to evaluate the performance of Justices and
4 judges which shall be completed by attorneys, jurors, represented
5 and unrepresented litigants, law enforcement personnel, attorneys
6 within the district attorneys' and public defenders' offices,
7 employees of the court, court interpreters, employees of probation
8 offices, and employees of local departments of social services;

9 6. Determine the validity of completed surveys developed
10 pursuant to paragraph 5 of this subsection, report to the Council on
11 the validity of the surveys, and prepare alternatives to surveys
12 where sample populations are inadequate to produce valid results;

13 7. Prepare narratives for the Board of Judicial Performance
14 Evaluation that reflect the performance of Justices and judges;

15 8. Submit any information concerning or appearing to concern a
16 complaint or violation of the Code of Judicial Conduct, or other
17 law, by a judicial officer to the Administrative Director to the
18 Council on Judicial Complaints;

19 9. Submit performance evaluations of Justices and judges to the
20 Board of Judicial Performance Evaluation for approval or rejection;
21 and

22 10. Recommend, at the Office's discretion after it completes an
23 evaluation of a Justice or judge pursuant to Section 32 of this act,
24 to the Board of Judicial Performance Evaluation that it develop an

1 individual judicial improvement plan pursuant to Section 34 of this
2 act.

3 SECTION 31. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1674 of Title 20, unless there
5 is created a duplication in numbering, reads as follows:

6 The Office of Judicial Performance Evaluation shall evaluate
7 each Justice and judge in Oklahoma utilizing the powers and duties
8 conferred in Section 30 of this act. The evaluations shall only
9 include the following performance evaluation criteria:

10 1. Integrity including, but not limited to, whether the Justice
11 or judge:

- 12 a. avoids impropriety or the appearance of impropriety,
- 13 b. displays fairness and impartiality toward all
- 14 participants, and
- 15 c. avoids ex parte communications;

16 2. Legal knowledge including, but not limited to, whether the
17 Justice or judge:

- 18 a. demonstrates, through well-reasoned opinions and
- 19 courtroom conduct, an understanding of substantive law
- 20 and relevant rules of procedure and evidence,
- 21 b. demonstrates, through well-reasoned opinions and
- 22 courtroom conduct, attentiveness to factual and legal
- 23 issues before the court, and
- 24

1 c. adheres to precedent or clearly explains the legal
2 basis for departure from precedent and appropriately
3 applies statutes or other sources of legal authority;

4 3. Communication skills including, but not limited to, whether
5 the Justice or judge:

6 a. presents clearly written and understandable opinions,
7 findings of fact, conclusions of law, and orders,

8 b. presents clearly stated and understandable questions
9 or statements during oral arguments or presentations,
10 and, for trial judges, clearly explains all oral
11 decisions, and

12 c. clearly presents information to the jury, as
13 necessary;

14 4. Judicial temperament including, but not limited to, whether
15 the Justice or judge:

16 a. demonstrates courtesy toward attorneys, litigants,
17 court staff, and others in the courtroom, and

18 b. maintains and requires order, punctuality, and
19 appropriate decorum in the courtroom;

20 5. Administrative performance including, but not limited to,
21 whether the Justice or judge:

22 a. demonstrates preparation for oral arguments, trials,
23 and hearings, as well as attentiveness to and
24 appropriate control over judicial proceedings,

- b. manages workload and court time effectively and efficiently,
- c. issues opinions, findings of fact, conclusions of law, and orders in a timely manner and without unnecessary delay,
- d. participates in a proportionate share of the court's workload, takes responsibility for more than his or her own caseload, and is willing to assist other Justices or judges, and
- e. understands and complies, as necessary, with directives of the Oklahoma Supreme Court, Oklahoma Court of Criminal Appeals, Oklahoma Court of Civil Appeals, the presiding judge of his or her administrative district, or the chief judge of the judicial district, as applicable; and

6. Service to the legal profession and the public by participating in service-oriented efforts designed to educate the public about the legal system and improve the legal system.

SECTION 32. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1675 of Title 20, unless there is created a duplication in numbering, reads as follows:

A. Within the first two (2) years of a Justice's or judge's first appointment or election to the bench, the Office of Judicial Performance Evaluation shall conduct an initial evaluation of each

1 Justice and judge. The Office shall complete and communicate the
2 initial evaluations, including any recommendations for improvement
3 plans, to the Board of Judicial Performance Evaluation for approval
4 or rejection. Once approved, the Office shall communicate the
5 initial evaluation to the Justice or judge in writing.

6 B. Within two (2) years of the approval of the initial
7 evaluation of a Justice or judge by the Board or within two (2)
8 years of the effective date of this act, the Office shall conduct an
9 interim evaluation of each Justice and judge. The Office shall
10 complete and communicate the interim evaluations, including any
11 recommendations for improvement plans, to the Board of Judicial
12 Performance Evaluation for approval or rejection. Once approved,
13 the Office shall communicate the interim evaluation to the Justice
14 or judge in writing.

15 C. For judges not required to stand for reelection or retention
16 election, the Office shall conduct additional interim evaluations of
17 such judges within two (2) years following a general election. The
18 Office shall complete and communicate the interim evaluations,
19 including any recommendations for improvement plans, to the Board of
20 Judicial Performance Evaluation for approval or rejection. Once
21 approved, the Office shall communicate the interim evaluation to the
22 judge in writing.

23 D. The Board shall grant each Justice or judge who receives
24 initial and interim evaluations the opportunity to meet with the

1 Board at its next meeting or otherwise respond to the initial or
2 interim evaluations no later than ten (10) days following the
3 Justice's or judge's receipt of the initial or interim evaluation.
4 If a meeting is held or a response is made, the Board may revise the
5 initial or interim evaluation as it sees fit.

6 E. Once the initial or interim performance evaluations are
7 finalized, the Office shall share the performance evaluations as
8 follows:

9 1. For special judges, with the Chief Justice of the Supreme
10 Court, the Presiding Administrative Judge of the judicial district
11 in which the special judge serves and any judge by administrative
12 orders in the role of a direct supervisor of the special judge of
13 the judicial district in which the special judge serves, and the
14 Director of the Administrative Office of the Courts; and

15 2. For district and associate judges, with the Chief Justice of
16 the Supreme Court and the Director of the Administrative Office of
17 the Courts.

18 SECTION 33. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1676 of Title 20, unless there
20 is created a duplication in numbering, reads as follows:

21 A. The Office of Judicial Performance Evaluation shall conduct
22 an election-year evaluation for each Justice or judge whose term is
23 to expire and who must stand for reelection or retention election.

24

1 B. 1. The Office shall complete an election-year evaluation
2 and related narrative to be approved by the Board of Judicial
3 Performance Evaluation. Once approved, the election-year evaluation
4 shall be communicated in writing to the Justice or judge no later
5 than forty-five (45) days prior to the last day available for the
6 Justice or judge to declare his or her intent to stand for
7 reelection or retention election.

8 2. The narrative prepared for an election-year evaluation must
9 include an assessment of the Justice's or judge's strengths and
10 weaknesses with respect to the judicial performance criteria
11 provided for in Section 31 of this act, a discussion regarding any
12 deficiency identified in an initial or interim evaluation prepared
13 pursuant to Section 32 of this act, a review of any improvement plan
14 developed pursuant to Section 34 of this act, and a statement of
15 whether the Board concludes that any deficiency identified has been
16 satisfactorily addressed, or a statement from the Board that an
17 improvement plan, if any, was satisfactorily followed by the Justice
18 or judge.

19 3. The Board shall grant each Justice or judge who receives an
20 election-year evaluation the opportunity to meet with the Board at
21 its next meeting or otherwise respond to the evaluation no later
22 than ten (10) days following his or her receipt of the evaluation.
23 If the meeting is held or a response is made, the Board may revise
24 the evaluation as it sees fit.

1 C. After the requirements of subsection B of this section are
2 met, the Council shall make a recommendation regarding the
3 performance of each Justice or judge who declares his or her intent
4 to stand for reelection or retention. The recommendations must be
5 stated as "meets performance standard" or "does not meet performance
6 standard". For a Justice or judge to receive a designation of "does
7 not meet performance standard", there must be a majority vote by the
8 Council members that the particular Justice or judge should receive
9 such a recommendation.

10 D. Once the election-year evaluation is finalized, the Office
11 shall share the performance evaluations for district and associate
12 judges with the Chief Justice of the Supreme Court and the Director
13 of the Administrative Office of the Courts.

14 SECTION 34. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 1677 of Title 20, unless there
16 is created a duplication in numbering, reads as follows:

17 A. 1. If the Office of Judicial Performance Evaluation
18 recommends, pursuant to Section 32 of this act, that a Justice or
19 judge receive an improvement plan, the Board of Judicial Performance
20 Evaluation shall determine whether an individual judicial
21 improvement plan is appropriate. If the Board determines an
22 improvement plan is appropriate, the Office shall then develop an
23 improvement plan for such Justice or judge. After the Board reviews
24

1 and approves the improvement plan, the Office shall have the
2 responsibility for implementing and overseeing the improvement plan.

3 2. Once the Justice or judge has completed the improvement
4 plan, the Office shall convey the results of the improvement plan
5 to the Board. The Office shall maintain a copy of the improvement
6 plan and the results in its files.

7 B. If a Justice or judge is required to complete an improvement
8 plan pursuant to this section and he or she fails to satisfactorily
9 complete the requirements of such improvement plan, the Board shall
10 automatically issue a "does not meet performance standard"
11 designation on his or her performance evaluation and shall advise
12 the Council on Judicial Complaints of such designation in the form
13 of a complaint.

14 C. Upon the completion of an improvement plan, the Office shall
15 share the results of the improvement plan as follows:

16 1. For special judges, with the Chief Justice of the Supreme
17 Court, the Presiding Administrative Judge of the judicial district
18 in which the special judge serves and any judge by administrative
19 orders in the role of a direct supervisor of the special judge of
20 the judicial district in which the special judge serves, and the
21 Director of the Administrative Office of the Courts; and

22 2. For district and associate judges, with the Chief Justice of
23 the Supreme Court and the Director of the Administrative Office of
24 the Courts.

1 SECTION 35. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1678 of Title 20, unless there
3 is created a duplication in numbering, reads as follows:

4 A member of the Board of Judicial Performance Evaluation or an
5 employee of the Office of Judicial Performance Evaluation shall
6 disclose any professional or personal relationship with a Justice or
7 judge that may affect an unbiased evaluation of the Justice or
8 judge, including involvement with any litigation involving the
9 Justice or judge and the member or employee, the member's or
10 employee's family, or the member's or employee's financial
11 interests. The Board may require, by a vote, the recusal of one of
12 its members or the Office's employee because of a relationship with
13 a Justice or judge.

14 SECTION 36. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 1679 of Title 20, unless there
16 is created a duplication in numbering, reads as follows:

17 A. 1. Except as specifically provided by law, all performance
18 evaluations, personal information, oral or written information,
19 content of any improvement plans, narratives, recommendations, and
20 any matter discussed by the Board of Judicial Performance Evaluation
21 concerning a performance evaluation or improvement plan is
22 confidential.

23 2. All surveys must allow for the participant's name to remain
24 confidential. Comments in surveys are confidential but may be

1 summarized in aggregate for use in performance evaluation
2 narratives.

3 B. Members of the Board of Judicial Performance Evaluation and
4 employees of the Office of Judicial Performance Evaluation shall not
5 publicly discuss the performance evaluation of a particular Justice
6 or judge.

7 SECTION 37. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 1680 of Title 20, unless there
9 is created a duplication in numbering, reads as follows:

10 A. The Board of Judicial Performance Evaluation shall promptly
11 approve or reject judicial performance evaluations submitted by the
12 Office of Judicial Performance Evaluation.

13 B. The Board of Judicial Performance Evaluation shall have the
14 following powers and duties:

15 1. Promulgate rules concerning:

16 a. the performance evaluation of Justices and judges by
17 the Office of Judicial Performance Evaluation based on
18 performance evaluation criteria set forth in Section
19 31 of this act, and

20 b. the creation of a standards matrix or scorecard
21 related to the performance evaluation criteria set
22 forth in Section 31 of this act;

23 2. Review data, prepared narratives, and recommendations made
24 by the Office of Judicial Performance Evaluation;

1 3. Approve or reject the performance evaluations of Justices
2 and judges submitted by the Office of Judicial Performance
3 Evaluation;

4 4. Vote as to whether the Justice or judge meets the
5 performance standard based upon the member's review of all the
6 information available to the Council and the Office's performance
7 evaluation; and

8 5. Determine whether information submitted during the
9 performance evaluation process shall be deemed a complaint.

10 SECTION 38. Sections 28 through 37 of this act shall become
11 effective November 1, 2022.

12 SECTION 39. Sections 1 through 27 of this act shall become
13 effective January 1, 2023.

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