

1 **SENATE FLOOR VERSION**

2 April 13, 2022

3 **AS AMENDED**

4 ENGROSSED HOUSE

5 BILL NO. 3196

6 By: Williams of the House

7 and

8 Daniels of the Senate

9 [fees and fines - Burt Holmes Fee Structure Policy
10 Act of 2022 - eliminating fees, fines, and costs -
11 effective date]

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

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

15 This act shall be known and may be cited as the "Burt Holmes Fee
16 Structure Policy Act of 2022".

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

19 Section 138.5 A. It shall be the duty of the office of the
20 county indigent defender to represent as counsel anyone who appears
21 for arraignment without aid of counsel, and who has been informed by
22 the judge that it is his right to have counsel, and who desires
23 counsel, but is unable to employ such aid; and upon order of a
24 district judge of such county he shall investigate any matter

1 pending before the judge and report to him in the manner prescribed
2 by the judge.

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

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

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

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

15 Section 1313.2 A. As used in this section:

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

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

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

23 4. "DNA" means Deoxyribonucleic acid.
24

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

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

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

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

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. 1. Any person arrested or convicted of a felony offense or~~
11 ~~convicted of a misdemeanor offense of assault and battery, domestic~~
12 ~~abuse, stalking, possession of a controlled substance prohibited~~
13 ~~under Schedule IV of the Uniform Controlled Dangerous Substances~~
14 ~~Act, outraging public decency, resisting arrest, escaping or~~
15 ~~attempting to escape, eluding a police officer, Peeping Tom,~~
16 ~~pointing a firearm, threatening an act of violence, breaking and~~
17 ~~entering a dwelling place, destruction of property, negligent~~
18 ~~homicide or causing a personal injury accident while driving under~~
19 ~~the influence of any intoxicating substance 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.~~ 1. 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.~~ 2. The monies from the DNA sample fee deposited into the
16 OSBI Revolving Fund shall be used for creating, staffing and
17 maintaining the OSBI DNA Laboratory and OSBI Combined DNA Index
18 System (CODIS) Database.

19 ~~F.~~ F. 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 ~~€~~ 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 21 O.S. 2021, Section 1753.3, is
21 amended to read as follows:

22 Section 1753.3 A. The operator of a vehicle, unless any other
23 person in the vehicle admits to or is identified as having committed
24 the act, shall be liable pursuant to subsection B of this section

1 for any act of throwing, dropping, depositing, or otherwise placing
2 any litter from a vehicle upon highways, roads, or public property.

3 B. Any person convicted of violating the provisions of
4 subsection A of this section shall be subject to a state traffic
5 offense punishable by a fine of not more than One Thousand Dollars
6 (\$1,000.00) and upon conviction shall be sentenced to perform not
7 less than five (5) nor more than twenty (20) hours of community
8 service in a litter abatement work program as approved by the court,
9 or the violator may be subject to criminal prosecution as provided
10 by the provisions of Section 1761.1 of this title. The penalties
11 collected from the payment of the citations shall, after deduction
12 of court costs, be paid into the reward fund created pursuant to
13 Section 1334 of Title 22 of the Oklahoma Statutes.

14 ~~C. Any person convicted of violating the provisions of~~
15 ~~subsection A of this section with any flaming or glowing substances~~
16 ~~except those which by law may be placed upon highway rights-of-way,~~
17 ~~or any substance which may cause a fire shall be subject to a state~~
18 ~~traffic offense punishable by a fine of not more than Two Thousand~~
19 ~~Dollars (\$2,000.00) and, upon conviction, shall be sentenced to~~
20 ~~perform not less than ten (10) nor more than forty (40) hours of~~
21 ~~community service in a litter abatement work program as approved by~~
22 ~~the court, or the violator may be subject to criminal prosecution as~~
23 ~~provided by the provisions of Section 1761.1 of this title. The~~
24 ~~penalties collected from the payment of the citations shall, after~~

1 ~~deduction of court costs, be paid to the fire department of the~~
2 ~~district in which the flaming or glowing substance was discarded.~~

3 ~~D. During a declared burn ban by the Governor, any person~~
4 ~~convicted of violating the provisions of subsection A of this~~
5 ~~section with any flaming or glowing substances except those which by~~
6 ~~law may be placed upon highway rights-of-way, or any substance which~~
7 ~~may cause a fire shall be subject to a state traffic offense~~
8 ~~punishable by a fine of not more than Four Thousand Dollars~~
9 ~~(\$4,000.00) and, upon conviction, shall be sentenced to perform not~~
10 ~~less than twenty (20) nor more than eighty (80) hours of community~~
11 ~~service in a litter abatement work program as approved by the court,~~
12 ~~or the violator may be subject to criminal prosecution as provided~~
13 ~~by the provisions of Section 1761.1 of this title. The penalties~~
14 ~~collected from the payment of the citations shall, after deduction~~
15 ~~of court costs, be paid to the fire department of the district in~~
16 ~~which the flaming or glowing substance was discarded.~~

17 ~~E.~~ As used in this section, "litter" means any flaming or
18 glowing substances except those which by law may be placed upon
19 highway rights-of-way, any substance which may cause a fire, any
20 bottles, cans, trash, garbage, or debris of any kind. As used in
21 this section, "litter" shall not include trash, garbage, or debris
22 placed beside a public road for collection by a garbage or
23 collection agency, or deposited upon or within public property
24 designated by the state or by any of its agencies or political

1 subdivisions as an appropriate place for such deposits if the person
2 making the deposit is authorized to use the property for such
3 purpose.

4 SECTION 6. AMENDATORY 21 O.S. 2021, Section 1761.1, is
5 amended to read as follows:

6 Section 1761.1 A. Any person who deliberately places, throws,
7 drops, dumps, deposits, or discards any garbage, trash, waste,
8 rubbish, refuse, debris, or other deleterious substance on any
9 public property, on any private property of another without consent
10 of the property owner or on his or her own private property in
11 violation of any county or state zoning or public health regulations
12 shall, upon conviction, be deemed guilty of a misdemeanor.

13 B. Any person convicted of violating the provisions of
14 subsection A of this section shall be punished by a fine of not less
15 than Five Hundred Dollars (\$500.00) nor more than Five Thousand
16 Dollars (\$5,000.00) or by imprisonment in the county jail for not
17 more than thirty (30) days, or by both such fine and imprisonment.

18 C. ~~Any person convicted of violating the provisions of~~
19 ~~subsection A of this section with any flaming or glowing substance,~~
20 ~~or any substance which may cause a fire shall be punished by a fine~~
21 ~~of not less than Two Thousand Dollars (\$2,000.00) nor more than Five~~
22 ~~Thousand Dollars (\$5,000.00) or by imprisonment in the county jail~~
23 ~~for not more than sixty (60) days, or by both such fine and~~
24 ~~imprisonment. The penalties collected from the payment of the~~

1 ~~citations shall, after deduction of court costs, be paid to the fire~~
2 ~~department of the district in which the flaming or glowing substance~~
3 ~~was discarded. Any person violating the provisions of this~~
4 ~~subsection shall be liable for all damages caused by the violation.~~
5 ~~Damages shall be recoverable in any court of competent jurisdiction.~~

6 ~~D. During a burn ban declared by the Governor, any person~~
7 ~~convicted of violating the provisions of subsection A of this~~
8 ~~section with any flaming or glowing substances, or any substance~~
9 ~~which may cause a fire shall be punished by a fine of not less than~~
10 ~~Four Thousand Dollars (\$4,000.00) nor more than Ten Thousand Dollars~~
11 ~~(\$10,000.00) or by imprisonment in the county jail for not more than~~
12 ~~one hundred twenty (120) days, or by both such fine and~~
13 ~~imprisonment. The penalties collected from the payment of the~~
14 ~~citations shall, after deduction of court costs, be paid to the fire~~
15 ~~department of the district in which the flaming or glowing substance~~
16 ~~was discarded. Any person violating the provisions of this~~
17 ~~subsection shall be liable for all damages caused by the violation.~~
18 ~~Damages shall be recoverable in any court of competent jurisdiction.~~

19 ~~E.~~ Any person convicted of violating the provisions of
20 subsection A of this section with any item of furniture, or item
21 that exceeds fifty (50) pounds, shall be punished by a fine of not
22 less than One Thousand Dollars (\$1,000.00) nor more than Six
23 Thousand Five Hundred Dollars (\$6,500.00) or by imprisonment in the

24

1 county jail for not more than sixty (60) days, or by both such fine
2 and imprisonment.

3 ~~F.~~ D. In addition to the penalty prescribed by subsection B of
4 this section, the court shall direct the person to make restitution
5 to the property owner affected; to remove and properly dispose of
6 the garbage, trash, waste, rubbish, refuse, or debris from the
7 property; to pick up, remove, and properly dispose of garbage,
8 trash, waste, rubbish, refuse, debris, and other nonhazardous
9 deleterious substances from public property; or perform community
10 service or any combination of the foregoing which the court, in its
11 discretion, deems appropriate. The dates, times, and locations of
12 such activities shall be scheduled by the sheriff pursuant to the
13 order of the court in such a manner as not to interfere with the
14 employment or family responsibilities of the person.

15 ~~G.~~ E. In addition to the penalty prescribed in subsection B of
16 this section and the restitution prescribed in subsection ~~F~~ D of
17 this section, the court may order the defendant to pay into the
18 reward fund as prescribed in Section 1334 of Title 22 of the
19 Oklahoma Statutes an amount not to exceed Two Thousand Dollars
20 (\$2,000.00).

21 ~~H.~~ F. The discovery of two or more items which have been
22 dropped, dumped, deposited, discarded, placed, or thrown at one
23 location and which bear a common address in a form which tends to
24 identify the latest owner of the items shall create a rebuttable

1 presumption that any competent person residing at such address
2 committed the unlawful act. The discovery or use of such evidence
3 shall not be sufficient to qualify for the reward provided in
4 Section 1334 of Title 22 of the Oklahoma Statutes.

5 ~~F.~~ G. Any person may report a violation of this section, if
6 committed in his or her presence, to an officer of the State Highway
7 Patrol, a county sheriff or deputy, a municipal law enforcement
8 officer or any other peace officer in this state. The peace officer
9 shall then conduct an investigation into the allegations, if
10 warranted. If a violation of this section has in fact been
11 committed, and the peace officer has reasonable cause to believe a
12 particular person or persons have committed the violation, a report
13 shall be filed with the district attorney for prosecution.

14 ~~F.~~ H. Notwithstanding the provisions of subsection ~~F.~~ G. of this
15 section, any peace officer of this state or of any political
16 subdivision of this state may issue a state traffic citation to any
17 person committing a violation of subsection A of this section. Such
18 state traffic citation shall be in an amount of not less than Five
19 Hundred Dollars (\$500.00) nor more than Five Thousand Dollars
20 (\$5,000.00). The penalties collected from the payment of such
21 citations shall not include court costs and shall be divided as
22 follows:

23 1. One-half (1/2) shall be paid into the reward fund created
24 pursuant to Section 1334 of Title 22 of the Oklahoma Statutes;

1 provided that if the citation is issued by a peace officer of a
2 county of this state, the funds allocated by this paragraph shall be
3 transferred to the general fund of the county of the law enforcement
4 officer issuing the citation; and

5 2. One-half (1/2) shall be paid into the sheriff's service fee
6 account for that county to be used for enforcing provisions of this
7 section.

8 ~~K.~~ I. The amount of bail for littering offenses specified in
9 Section 1753.3 of this title and for trash dumping offenses
10 specified in this section shall be the amount of fine specified in
11 each statute plus costs including any penalty assessment, as well as
12 costs incurred in Section 1313.3 of Title 20 of the Oklahoma
13 Statutes.

14 SECTION 7. AMENDATORY 22 O.S. 2021, Section 471.6, is
15 amended to read as follows:

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

19 1. Whether the offender voluntarily consents to the program
20 requirements;

21 2. Whether to accept the offender based upon the findings and
22 recommendations of the drug court investigation authorized by
23 Section 471.4 of this title;

24

1 3. Whether there is a written plea agreement, and if so,
2 whether the terms and conditions of the written negotiated plea
3 between the district attorney, the defense attorney and the offender
4 are appropriate and consistent with the penalty provisions and
5 conditions of other similar cases;

6 4. Whether there is an appropriate treatment program available
7 to the offender and whether there is a recommended treatment plan;
8 and

9 5. Any information relevant to determining eligibility;
10 provided, however, an offender shall not be denied admittance to any
11 drug court program based upon an inability to pay court costs or
12 other costs or fees.

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

16 1. The required treatment plan and plea agreement have not been
17 completed;

18 2. The program funding or availability of treatment has been
19 exhausted;

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

21 4. The offender was ineligible for consideration by the nature
22 of a violent offense at the time of arrest, and the charge has been
23 modified to meet the eligibility criteria of the program; or
24

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

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

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

- 18 1. Waiver of the offender's rights to speedy trial;
- 19 2. A written plea agreement which sets forth the offense
20 charged, the penalty to be imposed for the offense in the event of a
21 breach of the agreement and the penalty to be imposed, if any, in
22 the event of a successful completion of the treatment program;
23 provided, however, incarceration shall be prohibited when the
24 offender completes the treatment program;

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

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

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

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

12 G. The period of time during which an offender may participate
13 in the active treatment portion of the drug court program shall be
14 not less than six (6) months nor more than twenty-four (24) months
15 and may include a period of supervision not less than six (6) months
16 nor more than one (1) year following the treatment portion of the
17 program. The period of supervision may be extended by order of the
18 court for not more than six (6) months. No treatment dollars shall
19 be expended on the offender during the extended period of
20 supervision. If the court orders that the period of supervision
21 shall be extended, the drug court judge, district attorney, the
22 attorney for the offender and the supervising staff for the drug
23 court program shall evaluate the appropriateness of continued
24 supervision on a quarterly basis. All participating treatment

1 providers shall be certified by the Department of Mental Health and
2 Substance Abuse Services and shall be selected and evaluated for
3 performance-based effectiveness annually by the Department of Mental
4 Health and Substance Abuse Services. Treatment programs shall be
5 designed to be completed within twelve (12) months and shall have
6 relapse prevention and evaluation components.

7 H. The drug court judge shall order the offender to pay court
8 costs, treatment costs, and drug testing costs, ~~a program user fee~~
9 ~~not to exceed Twenty Dollars (\$20.00) per month and necessary~~
10 ~~supervision fees,~~ unless the offender is indigent. The drug court
11 judge shall establish a schedule for the payment of costs and fees.
12 The cost for treatment, drug testing and supervision shall be set by
13 the treatment and supervision providers respectively and made part
14 of the court's order for payment. User fees shall be set by the
15 drug court judge within the maximum amount authorized by this
16 subsection and payable directly to the court clerk for the benefit
17 and administration of the drug court program. Treatment, drug
18 testing and supervision costs shall be paid to the respective
19 providers. The court clerk shall collect all other costs and fees
20 ordered and deposit such costs and fees with the county treasurer in
21 a drug court fund created and administered pursuant to subsection I
22 of Section 471.1 of this title. The remaining user fees shall be
23 remitted to the State Treasurer by the court clerk for deposit in
24 the Department of Mental Health and Substance Abuse Services' Drug

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

20 I. Notwithstanding any other provision of law, if the driving
21 privileges of the offender have been suspended, revoked, canceled or
22 denied by the Department of Public Safety and if the drug court
23 judge determines that no other means of transportation for the
24 offender is available, the drug court judge may enter a written

1 order requiring the Department of Public Safety to stay any and all
2 such actions against the Class D driving privileges of the offender;
3 provided, the stay shall not be construed to grant driving
4 privileges to an offender who has not been issued a driver license
5 by the Department or whose Oklahoma driver license has expired, in
6 which case the offender shall be required to apply for and be found
7 eligible for a driver license, pass all examinations, if applicable,
8 and pay all statutory driver license issuance or renewal fees. The
9 offender shall provide proof of insurance to the drug court judge
10 prior to the judge ordering a stay of any driver license suspension,
11 revocation, cancellation or denial. When a judge of a drug court
12 enters a stay against an order by the Department of Public Safety
13 suspending or revoking the driving privileges of an offender, the
14 time period set in the order by the Department for the suspension or
15 revocation shall continue to run during the stay. When an offender
16 has successfully completed the drug court program, the drug court
17 judge shall maintain jurisdiction over the offender's driving
18 privileges for one (1) year after the date on which the offender
19 graduates from the drug court program.

20 SECTION 8. AMENDATORY 22 O.S. 2021, Section 979a, is
21 amended to read as follows:

22 Section 979a. A. The court shall require a person who is
23 actually received into custody at a jail facility or who is confined
24 in a city or county jail or holding facility, for any offense, to

1 pay the jail facility or holding facility the costs of
2 incarceration, both before and after conviction, upon conviction or
3 receiving a deferred sentence. The costs of incarceration shall be
4 collected by the clerk of the court as provided for collection of
5 other costs and fines, which shall be subject to review under the
6 procedures set forth in Section VIII of the Rules of the Oklahoma
7 Court of Criminal Appeals, Chapter 18, Appendix of this title.
8 Costs of incarceration shall include booking, receiving and
9 processing out, housing, food, clothing, medical care, dental care,
10 and psychiatric services. The costs for incarceration shall be an
11 amount equal to the actual cost of the services and shall be
12 determined by the chief of police for city jails and holding
13 facilities, by the county sheriff for county jails or by contract
14 amount, if applicable. In the event a person requires emergency
15 medical treatment for an injury or condition that threatens life or
16 threatens the loss or use of a limb prior to being actually received
17 into the custody of any jail facility, the provisions of Section 533
18 of Title 21 of the Oklahoma Statutes shall apply to taking custody,
19 medical care and cost responsibility. The cost of incarceration
20 shall be paid by the court clerk, when collected, to the
21 municipality, holding facility, county or other public entity
22 responsible for the operation of such facility where the person was
23 held at any time. ~~Except for medical costs, ten percent (10%) of~~
24 ~~any amount collected by the court clerk shall be paid to the~~

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

1 collects any court-ordered incarceration costs from the jail account
2 of the inmate or by criminal or civil action, the court clerk shall
3 be notified of the amount collected.

4 B. Except as may otherwise be provided in Section 533 of Title
5 21 of the Oklahoma Statutes, any offender receiving routine or
6 emergency medical services or medications or injured during the
7 commission of a felony or misdemeanor offense and administered any
8 medical care shall be required to reimburse the sheriff,
9 municipality or other public entity responsible for the operation of
10 the jail, the full amount paid by the sheriff, municipality or other
11 public entity responsible for the operation of the jail for any
12 medical care or treatment administered to such offender during any
13 period of incarceration or when the person was actually received
14 into custody for any reason in that jail facility. The sheriff,
15 municipality or other public entity responsible for the operation of
16 the jail may deduct the costs of medical care and treatment as
17 authorized by Section 531 of Title 19 of the Oklahoma Statutes. If
18 the funds collected from the jail account of the inmate are
19 insufficient to satisfy the actual medical costs paid, the sheriff,
20 municipality or other public entity responsible for the operation of
21 the jail shall be authorized to collect the remaining balance of the
22 medical care and treatment by civil actions.

23 C. Costs of incarceration shall be a debt of the inmate owed to
24 the municipality, county, or other public entity responsible for the

1 operation of the jail and may be collected as provided by law for
2 collection of any other civil debt or criminal penalty.

3 D. The court shall not waive the costs of incarceration in
4 their entirety. However, if the court determines that a reduction
5 in the fine, costs, and costs of incarceration is warranted, the
6 court shall equally apply the same percentage reduction to the fine,
7 costs, and costs of incarceration owed by the defendant.

8 SECTION 9. AMENDATORY 22 O.S. 2021, Section 982, is
9 amended to read as follows:

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

21 B. Whenever a person has a prior felony conviction and enters a
22 plea of guilty or nolo contendere to a felony offense other than a
23 violent felony offense, without an agreement by the district
24 attorney regarding the sentence to be imposed, the court may order a

1 presentence investigation be made by the Department of Corrections.

2 ~~The fee provided in subsection A of this section shall apply to~~
3 ~~persons subject to this subsection.~~

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

10 D. When conducting a presentence investigation, the Department
11 shall inquire into the circumstances of the offense and the
12 characteristics of the offender. The information obtained from the
13 investigation shall include, but not be limited to, a voluntary
14 statement from each victim of the offense concerning the nature of
15 the offense and the impact of the offense on the victim and the
16 immediate family of the victim, the amount of the loss suffered or
17 incurred by the victim as a result of the criminal conduct of the
18 offender, and the age, marital status, living arrangements,
19 financial obligations, income, family history and education, prior
20 juvenile and criminal records, associations with other persons
21 convicted of a felony offense, social history, indications of a
22 predisposition to violence or substance abuse, remorse or guilt
23 about the offense or the harm to the victim, job skills and
24 employment history of the offender. The Department shall make a

1 report of information from such investigation to the court,
2 including a recommendation detailing the punishment which is deemed
3 appropriate for both the offense and the offender, and specifically
4 a recommendation for or against probation or suspended sentence.
5 The report of the investigation shall be presented to the judge
6 within a reasonable time, and upon failure to present the report,
7 the judge may proceed with sentencing. Whenever, in the opinion of
8 the court or the Department, it is desirable, the investigation
9 shall include a physical and mental examination or either a physical
10 or mental examination of the offender.

11 E. The district attorney may have a presentence investigation
12 made by the Department on each person charged with a violent felony
13 offense and entering a plea of guilty or a plea of nolo contendere
14 as part of or in exchange for a plea agreement for a violent felony
15 offense. The presentence investigation shall be completed before
16 the terms of the plea agreement are finalized. The court shall not
17 approve the terms of any plea agreement without reviewing the
18 presentence investigation report to determine whether or not the
19 terms of the sentence are appropriate for both the offender and the
20 offense. ~~The fee provided in subsection A of this section shall~~
21 ~~apply to persons subject to this subsection and shall be a condition~~
22 ~~of the plea agreement and sentence.~~

23 F. The presentence investigation reports specified in this
24 section shall not be referred to, or be considered, in any appeal

1 proceedings. Before imposing a sentence, the court shall advise the
2 defendant, counsel for the defendant, and the district attorney of
3 the factual contents and conclusions of the presentence
4 investigation report. The court shall afford the offender a fair
5 opportunity to controvert the findings and conclusions of the
6 reports at the time of sentencing. If either the defendant or the
7 district attorney desires, a hearing shall be set by the court to
8 allow both parties an opportunity to offer evidence proving or
9 disproving any finding contained in a report, which shall be a
10 hearing in mitigation or aggravation of punishment.

11 G. The required presentence investigation and report may be
12 waived upon written waiver by the district attorney and the
13 defendant and upon approval by the Court.

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

15 1. Arson in the first degree;

16 2. Assault with a dangerous weapon, battery with a dangerous
17 weapon or assault and battery with a dangerous weapon;

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

20 4. Assault with intent to kill, or shooting with intent to
21 kill;

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

24 6. Assault while masked or disguised;

- 1 7. Burglary in the first degree or burglary with explosives;
- 2 8. Child beating or maiming;
- 3 9. Forcible sodomy;
- 4 10. Kidnapping, or kidnapping for extortion;
- 5 11. Lewd or indecent proposition or lewd or indecent acts with
6 a child;
- 7 12. Manslaughter in the first or second degrees;
- 8 13. Murder in the first or second degrees;
- 9 14. Rape in the first or second degrees, or rape by
10 instrumentation;
- 11 15. Robbery in the first or second degrees, or robbery by two
12 or more persons, or robbery with a dangerous weapon; or
- 13 16. Any attempt, solicitation or conspiracy to commit any of
14 the above enumerated offenses.

15 SECTION 10. AMENDATORY 22 O.S. 2021, Section 991a, is
16 amended to read as follows:

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

- 21 1. Suspend the execution of sentence in whole or in part, with
22 or without probation. The court, in addition, may order the
23 convicted defendant at the time of sentencing or at any time during
24 the suspended sentence to do one or more of the following:

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

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

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

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

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

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

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

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

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

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

- 1 k. to reimburse the court fund for amounts paid to court-
- 2 appointed attorneys for representing the defendant in
- 3 the case in which the person is being sentenced,
- 4 l. to participate in an assessment and evaluation by an
- 5 assessment agency or assessment personnel certified by
- 6 the Department of Mental Health and Substance Abuse
- 7 Services pursuant to Section 3-460 of Title 43A of the
- 8 Oklahoma Statutes and, as determined by the
- 9 assessment, participate in an alcohol and drug
- 10 substance abuse course or treatment program or both,
- 11 pursuant to Sections 3-452 and 3-453 of Title 43A of
- 12 the Oklahoma Statutes, or as ordered by the court,
- 13 m. to be placed in a victims impact panel program, as
- 14 defined in subsection H of this section, or
- 15 victim/offender reconciliation program and payment of
- 16 a fee to the program of not less than Fifteen Dollars
- 17 (\$15.00) nor more than Sixty Dollars (\$60.00) as set
- 18 by the governing authority of the program to offset
- 19 the cost of participation by the defendant. Provided,
- 20 each victim/offender reconciliation program shall be
- 21 required to obtain a written consent form voluntarily
- 22 signed by the victim and defendant that specifies the
- 23 methods to be used to resolve the issues, the
- 24 obligations and rights of each person, and the

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

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

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

1 records violations for investigation by a qualified
2 supervisory agency or person,

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

21 q. to submit to periodic testing for alcohol,
22 intoxicating substance, or controlled dangerous
23 substances by a qualified laboratory,
24

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

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

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

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

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

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

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

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

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

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

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

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

24 Additionally, the court may require the offender to

1 pay restitution and bogus check fees on any other
2 bogus check or checks that have been submitted to the
3 District Attorney Bogus Check Restitution Program,

4 hh. in the case of a person being sentenced for a
5 conviction for a violation of Section 644 of Title 21
6 of the Oklahoma Statutes, require the person to
7 receive an assessment for batterers, which shall be
8 conducted through a certified treatment program for
9 batterers, and

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

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

16 However, unless under the supervision of the district attorney,
17 the offender shall be required to pay Forty Dollars (\$40.00) per
18 month to the district attorney during the first two (2) years of
19 probation to compensate the district attorney for the costs incurred
20 during the prosecution of the offender and for the additional work
21 of verifying the compliance of the offender with the rules and
22 conditions of his or her probation. The district attorney may waive
23 any part of this requirement in the best interests of justice. Any
24 fees collected by the district attorney pursuant to this paragraph

1 shall be deposited in the General Revenue Fund of the State
2 Treasury. The court shall not waive, suspend, defer or dismiss the
3 costs of prosecution in its entirety. However, if the court
4 determines that a reduction in the fine, costs and costs of
5 prosecution is warranted, the court shall equally apply the same
6 percentage reduction to the fine, costs and costs of prosecution
7 owed by the offender;

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

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

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

23 5. Order the defendant to reimburse the Oklahoma State Bureau
24 of Investigation for all costs incurred by that agency for cleaning

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

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

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

1 b. to attend a victims impact panel program, as defined
2 in subsection H of this section, if such a program is
3 offered in the county where the judgment is rendered,
4 and to pay a fee of not less than Fifteen Dollars
5 (\$15.00) nor more than Sixty Dollars (\$60.00) as set
6 by the governing authority of the program and approved
7 by the court, to the program to offset the cost of
8 participation by the defendant, if in the opinion of
9 the court the defendant has the ability to pay such
10 fee,

11 c. to both participate in the alcohol and drug substance
12 abuse course or treatment program, pursuant to
13 subparagraph a of this paragraph and attend a victims
14 impact panel program, pursuant to subparagraph b of
15 this paragraph,

16 d. to install, at the expense of the person, an ignition
17 interlock device approved by the Board of Tests for
18 Alcohol and Drug Influence, upon every motor vehicle
19 operated by such person and to require that a notation
20 of this restriction be affixed to the person's driver
21 license at the time of reinstatement of the license.
22 The restriction shall remain on the driver license for
23 such period as the court shall determine. The
24 restriction may be modified or removed by order of the

1 court and notice of the order shall be given to the
2 Department of Public Safety. Upon the expiration of
3 the period for the restriction, the Department of
4 Public Safety shall remove the restriction without
5 further court order. Failure to comply with the order
6 to install an ignition interlock device or operating
7 any vehicle without such device during the period of
8 restriction shall be a violation of the sentence and
9 may be punished as deemed proper by the sentencing
10 court, or

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

23 7. In addition to the other sentencing powers of the court, in
24 the case of a person convicted of prostitution pursuant to Section

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

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

23 9. In addition to the other sentencing powers of the court, the
24 court, in the case of a sex offender sentenced after November 1,

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

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

19 11. In addition to the other sentencing powers of the court,
20 the court, in the case of a person convicted of cruelty to animals
21 pursuant to Section 1685 of Title 21 of the Oklahoma Statutes, may
22 require the person to pay restitution to animal facilities for
23 medical care and any boarding costs of victimized animals;

24

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

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

17 14. In addition to the other sentencing powers of the court, in
18 the case of a sex offender who is required by law to register
19 pursuant to the Sex Offenders Registration Act, the court shall
20 require the person to register any electronic mail address
21 information, instant message, chat or other Internet communication
22 name or identity information that the person uses or intends to use
23 while accessing the Internet or used for other purposes of social
24 networking or other similar Internet communication.

1 B. Notwithstanding any other provision of law, any person who
2 is found guilty of a violation of any provision of Section 761 or
3 11-902 of Title 47 of the Oklahoma Statutes or any person pleading
4 guilty or nolo contendere for a violation of any provision of such
5 sections shall be ordered to participate in, prior to sentencing, an
6 alcohol and drug assessment and evaluation by an assessment agency
7 or assessment personnel certified by the Department of Mental Health
8 and Substance Abuse Services for the purpose of evaluating the
9 receptivity to treatment and prognosis of the person. The court
10 shall order the person to reimburse the agency or assessor for the
11 evaluation. The fee shall be the amount provided in subsection C of
12 Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation
13 shall be conducted at a certified assessment agency, the office of a
14 certified assessor or at another location as ordered by the court.
15 The agency or assessor shall, within seventy-two (72) hours from the
16 time the person is assessed, submit a written report to the court
17 for the purpose of assisting the court in its final sentencing
18 determination. No person, agency or facility operating an alcohol
19 and drug substance abuse evaluation program certified by the
20 Department of Mental Health and Substance Abuse Services shall
21 solicit or refer any person evaluated pursuant to this subsection
22 for any treatment program or alcohol and drug substance abuse
23 service in which such person, agency or facility has a vested
24 interest; however, this provision shall not be construed to prohibit

1 the court from ordering participation in or any person from
2 voluntarily utilizing a treatment program or alcohol and drug
3 substance abuse service offered by such person, agency or facility.
4 If a person is sentenced to the custody of the Department of
5 Corrections and the court has received a written evaluation report
6 pursuant to this subsection, the report shall be furnished to the
7 Department of Corrections with the judgment and sentence. Any
8 evaluation report submitted to the court pursuant to this subsection
9 shall be handled in a manner which will keep such report
10 confidential from the general public's review. Nothing contained in
11 this subsection shall be construed to prohibit the court from
12 ordering judgment and sentence in the event the defendant fails or
13 refuses to comply with an order of the court to obtain the
14 evaluation required by this subsection.

15 C. When sentencing a person convicted of a crime, the court
16 shall first consider a program of restitution for the victim, as
17 well as imposition of a fine or incarceration of the offender. The
18 provisions of paragraph 1 of subsection A of this section shall not
19 apply to a defendant being sentenced for:

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

22 2. A fourth or subsequent conviction for any other felony
23 crime; or
24

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

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

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

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

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

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

24

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

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

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

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

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

6 H. As used in this section:

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

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

17 3. "Victims impact panel program" means a meeting with at least
18 one live presenter who will share personal stories with participants
19 about how alcohol, drug abuse and the illegal conduct of others has
20 personally impacted the life of the presenter. A victims impact
21 panel program shall be attended by persons who have committed the
22 offense of driving, operating or being in actual physical control of
23 a motor vehicle while under the influence of alcohol or other
24 intoxicating substance. Persons attending a victims impact panel

1 program shall be required to pay a fee of not less than Fifteen
2 Dollars (\$15.00) nor more than Sixty Dollars (\$60.00) to the
3 provider of the program. A certificate of completion shall be
4 issued to the person upon satisfying the attendance and fee
5 requirements of the victims impact panel program. A victims impact
6 panel program shall not be provided by any certified assessment
7 agency or certified assessor. The provider of the victims impact
8 panel program shall carry general liability insurance and maintain
9 an accurate accounting of all business transactions and funds
10 received in relation to the victims impact panel program.

11 I. A person convicted of a felony offense or receiving any form
12 of probation for an offense in which registration is required
13 pursuant to the Sex Offenders Registration Act, shall submit to
14 deoxyribonucleic acid DNA testing for law enforcement identification
15 purposes in accordance with Section 150.27 of Title 74 of the
16 Oklahoma Statutes and the rules promulgated by the Oklahoma State
17 Bureau of Investigation for the OSBI Combined DNA Index System
18 (CODIS) Database. Subject to the availability of funds, any person
19 convicted of a misdemeanor offense of assault and battery, domestic
20 abuse, stalking, possession of a controlled substance prohibited
21 under Schedule IV of the Uniform Controlled Dangerous Substances
22 Act, outraging public decency, resisting arrest, escape or
23 attempting to escape, eluding a police officer, Peeping Tom,
24 pointing a firearm, unlawful carry of a firearm, illegal transport

1 of a firearm, discharging of a firearm, threatening an act of
2 violence, breaking and entering a dwelling place, destruction of
3 property, negligent homicide, or causing a personal injury accident
4 while driving under the influence of any intoxicating substance, or
5 any alien unlawfully present under federal immigration law, upon
6 arrest, shall submit to deoxyribonucleic acid DNA testing for law
7 enforcement identification purposes in accordance with Section
8 150.27 of Title 74 of the Oklahoma Statutes and the rules
9 promulgated by the Oklahoma State Bureau of Investigation for the
10 OSBI Combined DNA Index System (CODIS) Database. Any defendant
11 sentenced to probation shall be required to submit to testing within
12 thirty (30) days of sentencing either to the Department of
13 Corrections or to the county sheriff or other peace officer as
14 directed by the court. Defendants who are sentenced to a term of
15 incarceration shall submit to testing in accordance with Section
16 530.1 of Title 57 of the Oklahoma Statutes, for those defendants who
17 enter the custody of the Department of Corrections or to the county
18 sheriff, for those defendants sentenced to incarceration in a county
19 jail. Convicted individuals who have previously submitted to DNA
20 testing under this section and for whom a valid sample is on file in
21 the OSBI Combined DNA Index System (CODIS) Database at the time of
22 sentencing shall not be required to submit to additional testing.
23 Except as required by the Sex Offenders Registration Act, a deferred
24

1 judgment does not require submission to deoxyribonucleic acid
2 testing.

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

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

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

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

15 SECTION 11. AMENDATORY 22 O.S. 2021, Section 1105.2, is
16 amended to read as follows:

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

22 B. When formal charges or an indictment has been filed, bail
23 shall be set according to law and the pretrial bond, if any, may be
24 reaffirmed unless additional security is required. Every judicial

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

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

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

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

24

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

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

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

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

14 SECTION 12. AMENDATORY 22 O.S. 2021, Section 1334, is
15 amended to read as follows:

16 Section 1334. A. The boards of county commissioners of
17 counties and the governing bodies of municipalities may offer and
18 pay a reward, ~~from funds set aside for that purpose, in an amount~~
19 ~~not to exceed fifty percent (50%) of the fine imposed,~~ for the
20 arrest and conviction or for evidence leading to the arrest and
21 conviction of any person who violates the provisions of Sections
22 1753.3 or 1761.1 of Title 21 of the Oklahoma Statutes.

23 B. The board of county commissioners or the governing body of
24 the municipality may create and maintain a reward fund in the county

1 or municipal treasury which shall be a revolving fund not subject to
2 fiscal year limitations, from which to pay the rewards provided for
3 in subsection A of this section, and to offset the cost of any
4 special enforcement programs originated by any law enforcement
5 agency responsible for the arrest or prosecution of any person who
6 violates the provisions of Sections 1753.3 or 1761.1 of Title 21 of
7 the Oklahoma Statutes. These costs may include, but not be limited
8 to, the posting of signs along the state's highways advising
9 motorists of the fines for littering or illegal dumping.

10 C. The board of county commissioners may provide for the
11 publication, advertisement and countywide distribution to the public
12 of information as to the reward program specified by this section.

13 D. Claims for rewards shall be on forms provided by the county
14 or municipality and shall be submitted to the prosecuting attorney
15 of the county or municipality no later than thirty (30) days after
16 sentencing of the defendant. The prosecuting attorney shall
17 investigate the validity of the claim and make a nonbinding written
18 recommendation to the board of county commissioners or governing
19 body of the municipality.

20 E. All claims relating to a conviction shall be considered
21 together at the next regular meeting of the board of county
22 commissioners or governing body of the municipality following
23 receipt of the prosecuting attorney's report.

24

1 F. In determining the amount of the reward, the board of county
2 commissioners or the governing body of the municipality shall have
3 sole discretion to honor or deny the claim, but shall consider:

4 1. The severity of the offense;

5 2. The size of the fine imposed;

6 3. The number of persons claiming a reward and the degree to
7 which each claimant was responsible for the arrest or conviction;

8 4. The burden, if any, incurred by the claimant including cost
9 to appear at trial; and

10 5. Other factors which the board or governing body deems
11 appropriate.

12 G. No reward shall be authorized and no debt shall accrue to
13 the county or municipality upon the depletion of the reward fund
14 authorized by this section.

15 H. The reward authorized by this section shall be in lieu of
16 any other county or municipal reward.

17 I. Full-time peace officers of this state or of any county or
18 municipality within this state shall not be eligible for the reward
19 provided by this section.

20 J. All courts assessing and receiving reward funds as required
21 by Sections 1753.3 and 1761.1 of Title 21 of the Oklahoma Statutes
22 shall provide appropriate transfer of the reward funds to the proper
23 county or municipal reward fund as prescribed by the provisions of
24 this section.

1 SECTION 13. AMENDATORY 22 O.S. 2021, Section 1355A, is
2 amended to read as follows:

3 Section 1355A. A. When an indigent requests representation by
4 the Oklahoma Indigent Defense System, such person shall submit an
5 appropriate application to the court clerk, which shall state that
6 the application is signed under oath and under the penalty of
7 perjury and that a false statement may be prosecuted as such. The
8 application shall state whether or not the indigent has been
9 released on bond. In addition, if the indigent has been released on
10 bond, the application shall include a written statement from the
11 applicant that the applicant has contacted three named attorneys,
12 licensed to practice law in this state, and the applicant has been
13 unable to obtain legal counsel. ~~A nonrefundable application fee of~~
14 ~~Forty Dollars (\$40.00) shall be paid to the court clerk at the time~~
15 ~~the application is submitted, and no application shall be accepted~~
16 ~~without payment of the fee; except that the court may, based upon~~
17 ~~the financial information submitted, defer all or part of the fee if~~
18 ~~the court determines that the person does not have the financial~~
19 ~~resources to pay the fee at time of application, to attach as a~~
20 ~~court fee upon conviction. Any fees collected pursuant to this~~
21 ~~subsection shall be retained by the court clerk, deposited in the~~
22 ~~Court Clerk's Revolving Fund, and reported quarterly to the~~
23 ~~Administrative Office of the Courts.~~

24

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

7 2. Upon promulgation of the rules required by law, the
8 determination of indigency shall be subject to review by the
9 Presiding Judge of the Judicial Administrative District. Until such
10 rules become effective, the determination of indigency shall be
11 subject to review by the Court of Criminal Appeals.

12 C. Before the court appoints the System based on the
13 application, the court shall advise the indigent or, if applicable,
14 a parent or legal guardian, that the application is signed under
15 oath and under the penalty of perjury and that a false statement may
16 be prosecuted as such. A copy of the application shall be sent to
17 the prosecuting attorney or the Office of the Attorney General,
18 whichever is appropriate, for review. Upon request by any party
19 including, but not limited to, the attorney appointed to represent
20 the indigent, the court shall hold a hearing on the issue of
21 eligibility for appointment of the System.

22 D. If the defendant is admitted to bail and the defendant or
23 another person on behalf of the defendant posts a bond, other than
24 by personal recognizance, the court may consider such fact in

1 determining the eligibility of the defendant for appointment of the
2 System; provided, however, such consideration shall not be the sole
3 factor in the determination of eligibility.

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

9 SECTION 14. AMENDATORY 28 O.S. 2021, Section 152, is
10 amended to read as follows:

11 Section 152. A. In any civil case filed in a district court,
12 the court clerk shall collect, at the time of filing, the following
13 flat fees, none of which shall ever be refundable, and which shall
14 be the only charge for court costs, except as is otherwise
15 specifically provided for by law:

- 16 1. Actions for divorce, alimony without
17 divorce, separate maintenance, custody or support.....\$183.00
- 18 2. Any ancillary proceeding to modify or
19 vacate a divorce decree providing for custody or
20 support.....\$43.00
- 21 3. Probate and guardianship.....\$135.00
- 22 4. Annual guardianship report.....\$33.00

1 5. Any proceeding for sale or lease of real or
2 personal property or mineral interest in probate or
3 guardianship.....\$43.00

4 6. Any proceeding to revoke the probate of a
5 will.....\$43.00

6 7. Judicial determination of death.....\$58.00

7 8. Adoption.....\$105.00

8 9. Civil actions for an amount of Ten Thousand
9 Dollars (\$10,000.00) or less and condemnation.....\$150.00

10 10. Civil actions for an amount of Ten
11 Thousand One Dollars (\$10,001.00) or more\$163.00

12 11. Garnishment.....\$23.00

13 12. Continuing wage garnishment.....\$63.00

14 13. Any other proceeding after judgment.....\$33.00

15 14. All others, including but not limited to
16 actions for forcible entry and detainer, judgments
17 from all other courts, including the Workers'
18 Compensation Court.....\$85.00

19 15. Notice of renewal of judgment.....\$23.00

20 B. In addition to the amounts collected pursuant to paragraphs
21 1, 3, 7, 8, 9, 10 and 14 of subsection A of this section, the sum of
22 Six Dollars (\$6.00) shall be assessed and credited to the Law
23 Library Fund.

24

1 C. In addition to the amounts collected pursuant to subsections
2 A and B of this section, the sum of Twenty-five Dollars (\$25.00)
3 shall be assessed and credited to the Oklahoma Court Information
4 System Revolving Fund created pursuant to Section 1315 of Title 20
5 of the Oklahoma Statutes.

6 ~~D. In addition to the amounts collected pursuant to subsection~~
7 ~~A of this section, the sum of Five Dollars (\$5.00) shall be assessed~~
8 ~~and credited to the Oklahoma court-appointed special advocates~~
9 ~~(OCASA).~~

10 ~~E.~~ In addition to the amounts collected pursuant to subsection
11 A of this section, the sum of Two Dollars (\$2.00) shall be assessed
12 and credited as follows:

13 1. One Dollar and fifty-five cents (\$1.55) of such amount shall
14 be credited to the Council on Judicial Complaints Revolving Fund;
15 and

16 2. Forty-five cents (\$0.45) of such amount shall be credited to
17 the Supreme Court Revolving Fund to be used to reimburse district
18 courts for expenses related to services of interpreters and
19 translators. Vouchers for such expenses shall be submitted by the
20 district court and approved by the Chief Justice of the Supreme
21 Court or another justice designated by the Chief Justice.

22 ~~F.~~ E. In addition to the amounts collected pursuant to
23 paragraphs 1, 3, 8, 9, 10 and 14 of subsection A of this section,
24 each county may assess, upon approval by the board of county

1 commissioners, a sum not to exceed Ten Dollars (\$10.00) per case to
2 be credited to the Sheriff's Service Fee Account in the county in
3 which the action arose for the purpose of enhancing existing or
4 providing additional courthouse security.

5 ~~G.~~ F. Until November 1, 2027, in addition to the amounts
6 collected pursuant to subsection A of this section, the sum of Ten
7 Dollars (\$10.00) shall be assessed and credited to the Court Clerk's
8 Records Management and Preservation Fund created in Section 31.3 of
9 this title.

10 ~~H.~~ G. In any case in which a litigant claims to have a just
11 cause of action and that, by reason of poverty, the litigant is
12 unable to pay the fees and costs provided for in this section and is
13 financially unable to employ counsel, upon the filing of an
14 affidavit in forma pauperis executed before any officer authorized
15 by law to administer oaths to that effect and upon satisfactory
16 showing to the court that the litigant has no means and is,
17 therefore, unable to pay the applicable fees and costs and to employ
18 counsel, no fees or costs shall be required. The opposing party or
19 parties may file with the court clerk of the court having
20 jurisdiction of the cause an affidavit similarly executed
21 contradicting the allegation of poverty. In all such cases, the
22 court shall promptly set for hearing the determination of
23 eligibility to litigate without payment of fees or costs. Until a
24 final order is entered determining that the affiant is ineligible,

1 the clerk shall permit the affiant to litigate without payment of
2 fees or costs. Any litigant executing a false affidavit or counter
3 affidavit pursuant to the provisions of this section shall be guilty
4 of perjury.

5 ~~F.~~ H. Payments to the court clerk for fees and costs assessed
6 pursuant to this section may be made by a nationally recognized
7 credit or debit card or other electronic payment method as provided
8 in paragraph 1 of subsection B of Section 151 of this title.

9 SECTION 15. AMENDATORY 28 O.S. 2021, Section 153, is
10 amended to read as follows:

11 Section 153. A. The clerks of the courts shall collect as
12 costs in every criminal case for each offense of which the defendant
13 is convicted, irrespective of whether or not the sentence is
14 deferred, the following flat charges and no more, except for
15 standing and parking violations and for charges otherwise provided
16 for by law, which fee shall cover docketing of the case, filing of
17 all papers, issuance of process, warrants, orders, and other
18 services to the date of judgment:

- 19 1. For each defendant convicted of
20 exceeding the speed limit by at least
21 one (1) mile per hour but not more than
22 ten (10) miles per hour, whether charged
23 individually or conjointly with others\$77.00

- 1 2. For each defendant convicted of a
2 misdemeanor traffic violation other than
3 an offense provided for in paragraph 1
4 or 5 of this subsection, whether charged
5 individually or conjointly with others\$98.00
- 6 3. For each defendant convicted of a
7 misdemeanor, other than for driving
8 under the influence of alcohol or other
9 intoxicating substance or an offense
10 provided for in paragraph 1 or 2 of this
11 subsection, whether charged individually
12 or conjointly with others\$93.00
- 13 4. For each defendant convicted of a
14 felony, other than for driving under the
15 influence of alcohol or other
16 intoxicating substance, whether charged
17 individually or conjointly with others\$103.00
- 18 5. For each defendant convicted of the
19 misdemeanor of driving under the influence
20 of alcohol or other intoxicating substance,
21 whether charged individually or conjointly
22 with others \$433.00
- 23 6. For each defendant convicted of the
24 felony of driving under the influence of

1 alcohol or other intoxicating substance,
2 whether charged individually or
3 conjointly with others\$433.00

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

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

8 9. A sheriff's fee for serving or
9 endeavoring to serve each writ, warrant,
10 order, process, command, or notice or
11 pursuing any fugitive from justice

12 a. within the county..... \$50.00, or
13 mileage as
14 established by the
15 Oklahoma Statutes,
16 whichever is
17 greater, or

18 b. outside of the county..... \$50.00, or
19 actual, necessary
20 expenses, whichever
21 is greater

22 10. For the services of a language interpreter, other than an
23 interpreter appointed pursuant to the provisions of the Oklahoma
24

1 Interpreter for the Deaf Act, at each hearing held in the case, the
2 actual cost of the interpreter.

3 B. In addition to the amount collected pursuant to paragraphs 2
4 through 6 of subsection A of this section, the sum of Six Dollars
5 (\$6.00) shall be assessed and credited to the Law Library Fund
6 pursuant to Section 1201 et seq. of Title 20 of the Oklahoma
7 Statutes.

8 C. In addition to the amount collected pursuant to subsection A
9 of this section, the sum of Twenty Dollars (\$20.00) shall be
10 assessed and collected in every traffic case for each offense other
11 than for driving under the influence of alcohol or other
12 intoxicating substance; the sum of Thirty Dollars (\$30.00) shall be
13 assessed and collected in every misdemeanor case for each offense;
14 the sum of Thirty Dollars (\$30.00) shall be assessed and collected
15 in every misdemeanor case for each offense for driving under the
16 influence of alcohol or other intoxicating substance; the sum of
17 Fifty Dollars (\$50.00) shall be assessed and collected in every
18 felony case for each offense; and the sum of Fifty Dollars (\$50.00)
19 shall be assessed and collected in every felony case for each
20 offense for driving under the influence of alcohol or other
21 intoxicating substance.

22 D. In addition to the amounts collected pursuant to subsections
23 A and B of this section, the sum of Twenty-five Dollars (\$25.00)
24 shall be assessed and credited to the Oklahoma Court Information

1 System Revolving Fund created pursuant to Section 1315 of Title 20
2 of the Oklahoma Statutes.

3 E. In addition to the amount collected pursuant to paragraphs 1
4 through 6 of subsection A of this section, the sum of Ten Dollars
5 (\$10.00) shall be assessed and credited to the Sheriff's Service Fee
6 Account in the county in which the conviction occurred for the
7 purpose of enhancing existing or providing additional courthouse
8 security.

9 F. In addition to the amounts collected pursuant to paragraphs
10 1 through 6 of subsection A of this section, the sum of Three
11 Dollars (\$3.00) shall be assessed and credited to the Office of the
12 Attorney General Victim Services Unit.

13 G. In addition to the amounts collected pursuant to paragraphs
14 1 through 6 of subsection A of this section, the sum of Three
15 Dollars (\$3.00) shall be assessed and credited to the Child Abuse
16 Multidisciplinary Account. This fee shall not be used for purposes
17 of hiring or employing any law enforcement officers.

18 ~~H. In addition to the amount collected pursuant to paragraphs 5~~
19 ~~and 6 of subsection A of this section, the sum of Fifteen Dollars~~
20 ~~(\$15.00) shall be assessed in every misdemeanor or felony case for~~
21 ~~each offense of driving under the influence of alcohol or other~~
22 ~~intoxicating substance and credited to the Oklahoma Impaired Driver~~
23 ~~Database Revolving Fund created pursuant to Section 8 of Enrolled~~

24

1 ~~House Bill No. 3146 of the 2nd Session of the 55th Oklahoma~~
2 ~~Legislature.~~

3 ~~F.~~ Prior to conviction, parties in criminal cases shall not be
4 required to pay, advance, or post security for the services of a
5 language interpreter or for the issuance or service of process to
6 obtain compulsory attendance of witnesses.

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

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

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

1 shall be deposited in its entirety into the Sheriff's Service Fee
2 Account of the sheriff in the county in which service is made or
3 attempted;

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

6 ~~3. The witness fees paid by the district attorney pursuant to~~
7 ~~the provisions of Section 82 of this title which, if collected by~~
8 ~~the court clerk, shall be transferred to the district attorney's~~
9 ~~office in the county where witness attendance was required. Fees~~
10 ~~transferred pursuant to this paragraph shall be deposited in the~~
11 ~~district attorney's maintenance and operating expense account;~~

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

15 ~~5.~~ 4. The following amounts of the fees provided for in
16 paragraphs 2, 3, 5 and 6 of subsection A of this section, when
17 collected, shall be deposited in the Trauma Care Assistance
18 Revolving Fund, created pursuant to the provisions of Section 1-
19 2530.9 of Title 63 of the Oklahoma Statutes:

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

23

24

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

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

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

10 ~~L.~~ K. Costs required to be collected pursuant to this section
11 shall not be dismissed or waived; provided, if the court determines
12 that a person needing the services of a language interpreter is
13 indigent, the court may waive all or part of the costs or require
14 the payment of costs in installments.

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

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

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

4 SECTION 16. AMENDATORY 29 O.S. 2021, Section 7-207, is
5 amended to read as follows:

6 Section 7-207. A. When a person is convicted of a wildlife
7 offense which involves a species of wildlife listed in Section 5-411
8 of this title or a species referenced in Section 5-412 of this title
9 and involves the unlawful possession, taking or killing of the
10 wildlife from an unlawful hunt, chase, trap, capture, shooting,
11 killing or slaughter, netting, shocking, or poisoning, by any means,
12 the court, in addition to the execution of sentence in whole or in
13 part, shall order the convicted defendant to provide restitution to
14 the Oklahoma Department of Wildlife Conservation.

15 ~~The amount of restitution shall be not less than One Hundred~~
16 ~~Dollars (\$100.00) nor more than Five Thousand Dollars (\$5,000.00)~~
17 ~~depending on the species, the type of specimen and the value of that~~
18 ~~animal to the wildlife resources of the state. The Department of~~
19 ~~Wildlife Conservation shall provide the court with a recommendation~~
20 ~~on the replacement cost. The court shall also take into~~
21 ~~consideration any previous convictions for violations of any fish~~
22 ~~and wildlife laws or regulations by the offender.~~

23 B. When a person is convicted of a wildlife offense which
24 involves any species of wildlife other than those listed or

1 referenced in Sections 5-411 and 5-412 of this title and involves
2 the unlawful possession, taking or killing of the wildlife from an
3 unlawful hunt, chase, trap, capture, shooting, killing or slaughter,
4 netting, shocking, or poisoning, by any means, the court, in
5 addition to the execution of sentence in whole or in part, shall
6 order the convicted defendant to provide restitution to the Oklahoma
7 Department of Wildlife Conservation. The amount of restitution
8 shall be not less than Ten Dollars (\$10.00) nor more than Five
9 Thousand Dollars (\$5,000.00) depending on the species, the type of
10 specimen and the value of that animal to the wildlife resources of
11 the state. The Department of Wildlife Conservation shall provide
12 the court with a recommendation on the replacement cost. The court
13 shall also take into consideration any previous convictions for
14 violations of any fish and wildlife laws or regulations by the
15 offender.

16 C. One hundred percent (100%) of the amount of restitution
17 shall be forfeited to the Oklahoma Department of Wildlife
18 Conservation in the event of a guilty plea or a conviction.

19 SECTION 17. AMENDATORY 47 O.S. 2021, Section 11-705, is
20 amended to read as follows:

21 Section 11-705. A. The driver of a vehicle meeting or
22 overtaking a school bus that is stopped to take on or discharge
23 school children, and on which the red loading signals are in
24 operation, is to stop the vehicle before it reaches the school bus

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

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

18 C. The driver of a vehicle upon a highway with separate
19 roadways need not stop upon meeting or passing a school bus which is
20 on a different roadway or when upon a controlled-access highway and
21 the school bus is stopped in a loading zone which is a part of or
22 adjacent to such highway and where pedestrians are not permitted to
23 cross the roadway.

24

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

19 E. 1. A school district may install and operate a video-
20 monitoring system in or on the school buses or the bus stop-arms
21 operated by the district or contract with a private vendor to do so
22 on behalf of the school district for the purpose of recording
23 violations of subsection A of this section. In the event the video-
24 monitoring system captures a recording of a violation of subsection

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

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

21 SECTION 18. AMENDATORY 47 O.S. 2021, Section 11-801e, is
22 amended to read as follows:

23 Section 11-801e. Notwithstanding any other provision of law,
24 any person convicted of a speeding violation of one (1) to ten (10)

1 miles per hour over the limit, pursuant to subsection B or F of
2 Section 11-801 of ~~Title 47 of the Oklahoma Statutes~~ this title,
3 shall be punished by a fine of Five Dollars (\$5.00) and costs and
4 fees not to exceed Ninety-five Dollars (\$95.00). The court clerk
5 shall collect fine, costs and fees to be directed as follows:

6 1. The sum of Thirty-three Dollars and seventy-two cents
7 (\$33.72) for each offense of which the defendant is convicted,
8 irrespective of whether the sentence is deferred, shall cover
9 docketing of the case, filing of all papers, issuance of process,
10 warrants, order and other services to the date of judgment;

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

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

18 4. The sum of Four Dollars and fifty cents (\$4.50) shall be
19 assessed and credited to the Sheriff's Service Fee Account in the
20 county in which the conviction occurred for the purpose of enhancing
21 existing or providing additional courthouse security;

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

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

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

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

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

17 ~~10.~~ The sum of Four Dollars and fifty cents (\$4.50) shall be
18 assessed. Four Dollars and twenty-eight cents (\$4.28) of each fee
19 received pursuant to this paragraph shall be collected and sent to
20 the Oklahoma State Bureau of Investigation for deposit into the
21 Forensic Science Improvement Revolving Fund created by Section
22 150.35 of Title 74 of the Oklahoma Statutes. The balance shall be
23 retained by the municipal court clerk;

24

1 ~~11.~~ 10. The sum of Nine Dollars (\$9.00) shall be assessed and
2 forwarded monthly in one check or draft to the Department of Public
3 Safety to be deposited in the Department of Public Safety Patrol
4 Vehicle Revolving Fund;

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

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

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

17 Section 11-902. A. It is unlawful and punishable as provided
18 in this section for any person to drive, operate, or be in actual
19 physical control of a motor vehicle within this state, whether upon
20 public roads, highways, streets, turnpikes, other public places or
21 upon any private road, street, alley or lane which provides access
22 to one or more single_ or multi-family dwellings, who:

23 1. Has a blood or breath alcohol concentration, as defined in
24 Section 756 of this title, of eight-hundredths (0.08) or more at the

1 time of a test of such person's blood or breath administered within
2 two (2) hours after the arrest of such person;

3 2. Is under the influence of alcohol;

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

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

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

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

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

24

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

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

- 21 a. follow all recommendations made in the assessment and
22 evaluation for treatment at the defendant's expense,
23 or
24

- 1 b. placement in the custody of the Department of
2 Corrections for not less than one (1) year and not to
3 exceed five (5) years and a fine of not more than Two
4 Thousand Five Hundred Dollars (\$2,500.00), or
5 c. treatment, imprisonment and a fine within the
6 limitations prescribed in subparagraphs a and b of
7 this paragraph.

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

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

- 21 a. follow all recommendations made in the assessment and
22 evaluation for treatment at the defendant's expense,
23 two hundred forty (240) hours of community service and
24 use of an ignition interlock device, as provided by

- 1 subparagraph n of paragraph 1 of subsection A of
2 Section 991a of Title 22 of the Oklahoma Statutes, or
3 b. placement in the custody of the Department of
4 Corrections for not less than one (1) year and not to
5 exceed ten (10) years and a fine of not more than Five
6 Thousand Dollars (\$5,000.00), or
7 c. treatment, imprisonment and a fine within the
8 limitations prescribed in subparagraphs a and b of
9 this paragraph.

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

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

- 23 a. follow all recommendations made in the assessment and
24 evaluation for treatment at the defendant's expense,

1 followed by not less than one (1) year of supervision
2 and periodic testing at the defendant's expense, four
3 hundred eighty (480) 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, for
7 a minimum of thirty (30) days, or

8 b. placement in the custody of the Department of
9 Corrections for not less than one (1) year and not to
10 exceed twenty (20) years and a fine of not more than
11 Five Thousand Dollars (\$5,000.00), or

12 c. treatment, imprisonment and a fine within the
13 limitations prescribed in subparagraphs a and b of
14 this paragraph.

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

18 5. Any person who, after a previous conviction of a violation
19 of murder in the second degree or manslaughter in the first degree
20 in which the death was caused as a result of driving under the
21 influence of alcohol or other intoxicating substance, is convicted
22 of a violation of this section shall be guilty of a felony and shall
23 be punished by imprisonment in the custody of the Department of
24 Corrections for not less than five (5) years and not to exceed

1 twenty (20) years, and a fine of not more than Ten Thousand Dollars
2 (\$10,000.00).

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

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

13 D. Any person who is convicted of a violation of driving under
14 the influence with a blood or breath alcohol concentration of
15 fifteen-hundredths (0.15) or more pursuant to this section shall be
16 deemed guilty of aggravated driving under the influence. A person
17 convicted of aggravated driving under the influence shall
18 participate in an assessment and evaluation pursuant to subsection G
19 of this section and shall comply with all recommendations for
20 treatment. Such person shall be sentenced as provided in paragraph
21 1, 2, 3, 4 or 5 of subsection C of this section and to:

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

24

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

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

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

14 2. A correctional facility operated by the Department of
15 Corrections with assignment to substance abuse treatment.
16 Successful completion of a Department-of-Corrections-approved
17 substance abuse treatment program shall satisfy the recommendation
18 for a ten-hour or twenty-four-hour alcohol and drug substance abuse
19 course or treatment program or both. Successful completion of an
20 approved Department of Corrections substance abuse treatment program
21 may precede or follow the required assessment.

22 F. The Department of Public Safety is hereby authorized to
23 reinstate any suspended or revoked driving privilege when the person
24

1 meets the statutory requirements which affect the existing driving
2 privilege.

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

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

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

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

22 I. Any person who is found guilty of a felony violation of the
23 provisions of this section shall be required to submit to electronic
24

1 monitoring as authorized and defined by Section 991a of Title 22 of
2 the Oklahoma Statutes.

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

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

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

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

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

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

16 1. The results of any standardized field sobriety test
17 including, but not limited to, the horizontal gaze nystagmus (HGN)
18 test administered by a person who has completed training in
19 standardized field sobriety testing; or

20 2. Whether a person was under the influence of one or more
21 impairing substances and the category of such impairing substance or
22 substances. A witness who has received training and holds a current
23 certification as a drug recognition expert shall be qualified to
24

1 give the testimony in any case in which such testimony may be
2 relevant.

3 SECTION 20. AMENDATORY 47 O.S. 2021, Section 11-1112, is
4 amended to read as follows:

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

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

18 2. A child at least four (4) years of age but younger than
19 eight (8) years of age, if not taller than 4 feet 9 inches in
20 height, shall be properly secured in either a child passenger
21 restraint system or child booster seat.

22 For purposes of this section and Section 11-1113 of this title,
23 "child passenger restraint system" means an infant or child
24

1 passenger restraint system which meets the federal standards as set
2 by 49 C.F.R., Section 571.213.

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

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

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

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

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

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

16 5. The transportation of a child who weighs more than forty
17 (40) pounds and who is being transported in the back seat of a
18 vehicle while wearing only a lap safety belt when the back seat of
19 the vehicle is not equipped with combination lap and shoulder safety
20 belts, or when the combination lap and shoulder safety belts in the
21 back seat are being used by other children who weigh more than forty
22 (40) pounds. Provided, however, for purposes of this paragraph,
23 back seat shall include all seats located behind the front seat of a
24 vehicle operated by a licensed child care facility or church.

1 Provided further, there shall be a rebuttable presumption that a
2 child has met the weight requirements of this paragraph if at the
3 request of any law enforcement officer, the licensed child care
4 facility or church provides the officer with a written statement
5 verified by the parent or legal guardian that the child weighs more
6 than forty (40) pounds.

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

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

16 E. A person who is certified as a Child Passenger Safety
17 Technician and who in good faith provides inspection, adjustment, or
18 educational services regarding child passenger restraint systems
19 shall not be liable for civil damages resulting from any act or
20 omission in providing such services, other than acts or omissions
21 constituting gross negligence or willful or wanton misconduct.

22 ~~F. Any person convicted of violating subsection A of this~~
23 ~~section shall be punished by a fine of Fifty Dollars (\$50.00) and~~
24 ~~shall pay all court costs thereof. Revenue from such fine shall be~~

1 ~~apportioned to the Department of Public Safety Restricted Revolving~~
2 ~~Fund and used by the Oklahoma Highway Safety Office to promote the~~
3 ~~use of child passenger restraint systems as provided in Section 11-~~
4 ~~1113 of this title. This fine shall be suspended and the court~~
5 ~~costs limited to a maximum of Fifteen Dollars (\$15.00) in the case~~
6 ~~of the first offense upon proof of purchase or acquisition by loan~~
7 ~~of a child passenger restraint system. Provided, the Department of~~
8 ~~Public Safety shall not assess points to the driving record of any~~
9 ~~person convicted of a violation of this section.~~

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

19 SECTION 21. AMENDATORY 47 O.S. 2021, Section 17-101, is
20 amended to read as follows:

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

24

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

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

20 C. Unless another penalty is in this title or by the laws of
21 this state provided, every person convicted of a misdemeanor for the
22 violation of any other provision of this title shall be punished by
23 a fine of not less than Five Dollars (\$5.00) nor more than Five
24

1 Hundred Dollars (\$500.00), or by imprisonment for not more than six
2 (6) months, or by both such fine and imprisonment.

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

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

19 ~~F. One-half (1/2) of any fine collected pursuant to the~~
20 ~~provisions of subsection E of this section, shall be deposited to~~
21 ~~the Trauma Care Assistance Revolving Fund created in Section 1-2522~~
22 ~~of Title 63 of the Oklahoma Statutes.~~

23 SECTION 22. AMENDATORY 47 O.S. 2021, Section 17-102, is
24 amended to read as follows:

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

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

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

1 SECTION 23. AMENDATORY 47 O.S. 2021, Section 752, is
2 amended to read as follows:

3 Section 752. A. Only a licensed medical doctor, licensed
4 osteopathic physician, licensed chiropractic physician, registered
5 nurse, licensed practical nurse, physician's assistant, certified by
6 any state's appropriate licensing authority, an employee of a
7 hospital or other health care facility authorized by the hospital or
8 health care facility to withdraw blood, or individuals licensed in
9 accordance with Section 1-2505 of Title 63 of the Oklahoma Statutes
10 as an Intermediate Emergency Medical Technician, an Advanced
11 Emergency Medical Technician or a Paramedic, acting within the scope
12 of practice prescribed by their medical director, acting at the
13 request of a law enforcement officer may withdraw blood for the
14 purpose of having a determination made of its concentration of
15 alcohol or the presence or concentration of other intoxicating
16 substance. Only qualified persons authorized by the Board may
17 collect breath, saliva or urine, or administer tests of breath under
18 the provisions of this title.

19 B. If the person authorized to withdraw blood as specified in
20 subsection A of this section is presented with a written statement:

21 1. Authorizing blood withdrawal signed by the person whose
22 blood is to be withdrawn;

23

24

1 2. Signed by a duly authorized peace officer that the person
2 whose blood is to be withdrawn has agreed to the withdrawal of
3 blood;

4 3. Signed by a duly authorized peace officer that the person
5 whose blood is to be withdrawn has been placed under arrest and that
6 the officer has probable cause to believe that the person, while
7 intoxicated, has operated a motor vehicle in such manner as to have
8 caused the death or serious physical injury of another person, or
9 the person has been involved in a traffic accident and has been
10 removed from the scene of the accident that resulted in the death or
11 great bodily injury, as defined in subsection B of Section 646 of
12 Title 21 of the Oklahoma Statutes, of any person to a hospital or
13 other health care facility outside the State of Oklahoma before the
14 law enforcement officer was able to effect an arrest for such
15 offense; or

16 4. In the form of an order from a district court that blood be
17 withdrawn, the person authorized to withdraw the blood and the
18 hospital or other health care facility where the withdrawal occurs
19 may rely on such a statement or order as evidence that the person
20 has consented to or has been required to submit to the clinical
21 procedure and shall not require the person to sign any additional
22 consent or waiver form. In such a case, the person authorized to
23 perform the procedure, the employer of such person and the hospital

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1 or other health care facility shall not be liable in any action
2 alleging lack of consent or lack of informed consent.

3 C. No person specified in subsection A of this section, no
4 employer of such person and no hospital or other health care
5 facility where blood is withdrawn shall incur any civil or criminal
6 liability as a result of the proper withdrawal of blood when acting
7 at the request of a law enforcement officer by the provisions of
8 Section 751 or 753 of this title, or when acting in reliance upon a
9 signed statement or court order as provided in this section, if the
10 act is performed in a reasonable manner according to generally
11 accepted clinical practice. No person specified in subsection A of
12 this section shall incur any civil or criminal liability as a result
13 of the proper collection of breath, saliva or urine when acting at
14 the request of a law enforcement officer under the provisions of
15 Section 751 or 753 of this title or when acting pursuant to a court
16 order.

17 D. The blood, breath, saliva or urine specimens obtained shall
18 be tested by the appropriate test as determined by the Board, or
19 tested by a laboratory that is exempt from the Board rules pursuant
20 to Section 759 of this title, to determine the alcohol concentration
21 thereof, or the presence or concentration of any other intoxicating
22 substance which might have affected the ability of the person tested
23 to operate a motor vehicle safely.

24

1 E. When blood is withdrawn for testing of its alcohol
2 concentration or other intoxicating substance presence or
3 concentration, at the request of a law enforcement officer, a
4 sufficient quantity of the same specimen shall be obtained to enable
5 the tested person, at his or her own option and expense, to have an
6 independent analysis made of such specimen. The excess blood
7 specimen shall be retained by a laboratory approved by the Board in
8 accordance with the rules and regulations of the Board or by a
9 laboratory that is exempt from the Board rules pursuant to Section
10 759 of this title, for sixty (60) days from the date of collection.
11 At any time within that period, the tested person or his or her
12 attorney may direct that such blood specimen be sent or delivered to
13 a laboratory of his or her own choosing and approved by the Board
14 for an independent analysis. Neither the tested person, nor any
15 agent of such person, shall have access to the additional blood
16 specimen prior to the completion of the independent analysis, except
17 the analyst performing the independent analysis and agents of the
18 analyst.

19 ~~F. The costs of collecting blood specimens for the purpose of~~
20 ~~determining the alcohol or other intoxicating substance thereof, by~~
21 ~~or at the direction of a law enforcement officer, shall be borne by~~
22 ~~the law enforcement agency employing such officer; provided, if the~~
23 ~~person is convicted for any offense involving the operation of a~~
24 ~~motor vehicle while under the influence of or while impaired by~~

1 ~~alcohol or an intoxicating substance, or both, as a direct result of~~
2 ~~the incident which caused the collection of blood specimens, an~~
3 ~~amount equal to the costs shall become a part of the court costs of~~
4 ~~the person and shall be collected by the court and remitted to the~~
5 ~~law enforcement agency bearing the costs.~~ The cost of collecting,
6 retaining and sending or delivering to an independent laboratory the
7 excess specimens of blood for independent analysis at the option of
8 the tested person shall also be borne by such law enforcement
9 agency. The cost of the independent analysis of such specimen of
10 blood shall be borne by the tested person at whose option such
11 analysis is performed. The tested person, or his or her agent,
12 shall make all necessary arrangements for the performance of such
13 independent analysis other than the forwarding or delivery of such
14 specimen.

15 ~~G.~~ Tests of blood or breath for the purpose of determining the
16 alcohol concentration thereof, and tests of blood for the purpose of
17 determining the presence or concentration of any other intoxicating
18 substance therein, under the provisions of this title, whether
19 administered by or at the direction of a law enforcement officer or
20 administered independently, at the option of the tested person, on
21 the excess specimen of such person's blood to be considered valid
22 and admissible in evidence under the provisions of this title, shall
23 have been administered in accordance with Section 759 of this title.

24

1 ~~H.~~ G. Any person who has been arrested for any offense arising
2 out of acts alleged to have been committed while the person was
3 operating or in actual physical control of a motor vehicle while
4 under the influence of alcohol, any other intoxicating substance or
5 the combined influence of alcohol and any other intoxicating
6 substance who is not requested by a law enforcement officer to
7 submit to a test shall be entitled to have an independent test of
8 his or her blood for the purpose of determining its alcohol
9 concentration or the presence or concentration of any other
10 intoxicating substance therein, performed by a person of his or her
11 own choosing who is qualified as stipulated in this section. The
12 arrested person shall bear the responsibility for making all
13 necessary arrangements for the administration of such independent
14 test and for the independent analysis of any specimens obtained, and
15 bear all costs thereof. The failure or inability of the arrested
16 person to obtain an independent test shall not preclude the
17 admission of other competent evidence bearing upon the question of
18 whether such person was under the influence of alcohol, or any other
19 intoxicating substance or the combined influence of alcohol and any
20 other intoxicating substance.

21 ~~F.~~ H. Any agency or laboratory certified by the Board or any
22 agency or laboratory that is exempt from the Board rules pursuant to
23 Section 759 of this title, which analyses blood shall make available
24

1 a written report of the results of the test administered by or at
2 the direction of the law enforcement officer to:

- 3 1. The tested person, or his or her attorney;
- 4 2. The Commissioner of Public Safety; and
- 5 3. The Fatality Analysis Reporting System (FARS) analyst of the
6 state, upon request.

7 The results of the tests provided for in this title shall be
8 admissible in all civil actions, including administrative hearings
9 regarding driving privileges.

10 SECTION 24. AMENDATORY 63 O.S. 2021, Section 2-401, is
11 amended to read as follows:

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

15 1. To distribute, dispense, transport with intent to distribute
16 or dispense, possess with intent to manufacture, distribute, or
17 dispense, a controlled dangerous substance or to solicit the use of
18 or use the services of a person less than eighteen (18) years of age
19 to cultivate, distribute or dispense a controlled dangerous
20 substance;

21 2. To create, distribute, transport with intent to distribute
22 or dispense, or possess with intent to distribute, a counterfeit
23 controlled dangerous substance; or
24

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

5 B. Any person who violates the provisions of this section with
6 respect to:

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

22 2. Any other controlled dangerous substance classified in
23 Schedule III, IV, V or marijuana, upon conviction, shall be guilty
24 of a felony and shall be sentenced to a term of imprisonment in the

1 custody of the Department of Corrections for not more than five (5)
2 years and a fine of not more than Twenty Thousand Dollars
3 (\$20,000.00), which shall be in addition to other punishment
4 provided by law and shall not be imposed in lieu of other
5 punishment. A second conviction for the violation of the provisions
6 of this paragraph is a felony punishable by a term of imprisonment
7 in the custody of the Department of Corrections for not more than
8 ten (10) years. A third or subsequent conviction for the violation
9 of the provisions of this paragraph is a felony punishable by a term
10 of imprisonment in the custody of the Department of Corrections for
11 not more than fifteen (15) years; or

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

23 C. 1. Except when authorized by the Food and Drug
24 Administration of the United States Department of Health and Human

1 Services, it shall be unlawful for any person to manufacture or
2 distribute a controlled substance or synthetic controlled substance.

3 2. Any person convicted of violating the provisions of
4 paragraph 1 of this subsection with respect to distributing a
5 controlled substance is guilty of a felony and shall be punished by
6 imprisonment in the custody of the Department of Corrections for a
7 term not to exceed ten (10) years and a fine of not more than
8 Twenty-five Thousand Dollars (\$25,000.00), which shall be in
9 addition to other punishment provided by law and shall not be
10 imposed in lieu of other punishment.

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

20 4. Any person convicted of violating the provisions of
21 paragraph 1 of this subsection with respect to manufacturing a
22 controlled substance is guilty of a felony and shall be punished by
23 imprisonment in the custody of the Department of Corrections for a
24 term not to exceed ten (10) years and a fine of not more than

1 Twenty-five Thousand Dollars (\$25,000.00), which shall be in
2 addition to other punishment provided by law and shall not be
3 imposed in lieu of other punishment.

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

13 D. Convictions for violations of the provisions of this section
14 shall be subject to the statutory provisions for suspended or
15 deferred sentences, or probation as provided in Section 991a of
16 Title 22 of the Oklahoma Statutes.

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

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

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

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

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

21 1. For a first offense, a term of imprisonment in the custody
22 of the Department of Corrections, or by the imposition of a fine or
23 by both, not exceeding twice that authorized by the appropriate
24 provision of this section; or

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

5 Convictions for second and subsequent violations of the provisions
6 of this section shall not be subject to statutory provisions of
7 suspended sentences, deferred sentences or probation.

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

18 2. Any person violating the provisions of this subsection with
19 respect to the unlawful manufacturing or attempting to unlawfully
20 manufacture any controlled dangerous substance, or possessing any
21 substance listed in this subsection or Section 2-322 of this title,
22 upon conviction, is guilty of a felony and shall be punished by
23 imprisonment for not less than seven (7) years nor more than life
24 and by a fine of not less than Fifty Thousand Dollars (\$50,000.00),

1 which shall be in addition to other punishment provided by law and
2 shall not be imposed in lieu of other punishment. The possession of
3 any amount of anhydrous ammonia in an unauthorized container shall
4 be prima facie evidence of intent to use such substance to
5 manufacture a controlled dangerous substance.

6 3. Any person violating the provisions of this subsection with
7 respect to the unlawful manufacturing or attempting to unlawfully
8 manufacture any controlled dangerous substance in the following
9 amounts:

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

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

14 (1) coca leaves, except coca leaves and extracts of
15 coca leaves from which cocaine, ecgonine, and
16 derivatives of ecgonine or their salts have been
17 removed,

18 (2) cocaine, its salts, optical and geometric
19 isomers, and salts of isomers,

20 (3) ecgonine, its derivatives, their salts, isomers,
21 and salts of isomers, or

22 (4) any compound, mixture, or preparation which
23 contains any quantity of any of the substances
24

1 referred to in divisions (1) through (3) of this
2 subparagraph,

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

6 d. one hundred (100) grams or more of phencyclidine (PCP)
7 or 1 kilogram or more of a mixture or substance
8 containing a detectable amount of phencyclidine (PCP),

9 e. ten (10) grams or more of a mixture or substance
10 containing a detectable amount of lysergic acid
11 diethylamide (LSD),

12 f. four hundred (400) grams or more of a mixture or
13 substance containing a detectable amount of N-phenyl-
14 N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 100
15 grams or more of a mixture or substance containing a
16 detectable amount of any analogue of N-phenyl-N-[1-(2-
17 phenylethyl)-4-piperidinyl] propanamide,

18 g. one thousand (1,000) kilograms or more of a mixture or
19 substance containing a detectable amount of ~~marihuana~~
20 marijuana or one thousand (1,000) or more ~~marihuana~~
21 marijuana plants regardless of weight, or

22 h. fifty (50) grams or more of methamphetamine, its
23 salts, isomers, and salts of its isomers or 500 grams
24 or more of a mixture or substance containing a

1 detectable amount of methamphetamine, its salts,
2 isomers, or salts of its isomers,
3 upon conviction, is guilty of aggravated manufacturing a controlled
4 dangerous substance punishable by imprisonment for not less than
5 twenty (20) years nor more than life and by a fine of not less than
6 Fifty Thousand Dollars (\$50,000.00), which shall be in addition to
7 other punishment provided by law and shall not be imposed in lieu of
8 other punishment. Any person convicted of a violation of the
9 provisions of this paragraph shall be required to serve a minimum of
10 eighty-five percent (85%) of the sentence received prior to becoming
11 eligible for state correctional earned credits towards the
12 completion of the sentence or eligible for parole.

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

23 5. Any person who has been convicted of manufacturing or
24 attempting to manufacture methamphetamine pursuant to the provisions

1 of this subsection and who, after such conviction, purchases or
2 attempts to purchase, receive or otherwise acquire any product,
3 mixture, or preparation containing any detectable quantity of base
4 pseudoephedrine or ephedrine shall, upon conviction, be guilty of a
5 felony punishable by imprisonment in the custody of the Department
6 of Corrections for a term in the range of twice the minimum term
7 provided for in paragraph 2 of this subsection.

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

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

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

24

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

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

14 SECTION 25. AMENDATORY 63 O.S. 2021, Section 2-402, is
15 amended to read as follows:

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

22 2. It shall be unlawful for any person to purchase any
23 preparation excepted from the provisions of the Uniform Controlled
24 Dangerous Substances Act pursuant to Section 2-313 of this title in

1 an amount or within a time interval other than that permitted by
2 Section 2-313 of this title.

3 3. It shall be unlawful for any person or business to sell,
4 market, advertise or label any product containing ephedrine, its
5 salts, optical isomers, or salts of optical isomers, for the
6 indication of stimulation, mental alertness, weight loss, appetite
7 control, muscle development, energy or other indication which is not
8 approved by the pertinent federal OTC Final Monograph, Tentative
9 Final Monograph, or FDA-approved new drug application or its legal
10 equivalent. In determining compliance with this requirement, the
11 following factors shall be considered:

- 12 a. the packaging of the product,
- 13 b. the name of the product, and
- 14 c. the distribution and promotion of the product,
15 including verbal representations made at the point of
16 sale.

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

18 1. Any Schedule I or II substance, except marijuana or a
19 substance included in subsection D of Section 2-206 of this title,
20 is guilty of a felony punishable by imprisonment for not more than
21 five (5) years and by a fine not exceeding Five Thousand Dollars
22 (\$5,000.00). A second violation of this section with respect to a
23 Schedule I or II substance, except marijuana or a substance included
24 in subsection D of Section 2-206 of this title, is a felony

1 punishable by imprisonment for not more than ten (10) years and by a
2 fine not exceeding Ten Thousand Dollars (\$10,000.00). A third or
3 subsequent violation of this section with respect to a Schedule I or
4 II substance, except marijuana or a substance included in subsection
5 D of Section 2-206 of this title, is a felony punishable by
6 imprisonment for not less than four (4) years nor more than fifteen
7 (15) years and by a fine not exceeding Ten Thousand Dollars
8 (\$10,000.00);

9 2. 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 is guilty of a misdemeanor punishable by
13 confinement for not more than one (1) year and by a fine not
14 exceeding One Thousand Dollars (\$1,000.00);

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

1 than five (5) years and by a fine not exceeding Five Thousand
2 Dollars (\$5,000.00); or

3 4. 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 and who, ten (10) or more years following
7 the date of completion of the execution of any sentence or deferred
8 judgment for a violation of this section, commits a second or
9 subsequent violation of this section shall, upon conviction, be
10 guilty of a felony punishable by imprisonment in the custody of the
11 Department of Corrections for not less than one (1) year nor more
12 than five (5) years and by a fine not exceeding Five Thousand
13 Dollars (\$5,000.00).

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

23 1. For a first offense, a term of imprisonment, or by the
24 imposition of a fine, or by both, not exceeding twice that

1 authorized by the appropriate provision of this section. In
2 addition, the person shall serve a minimum of fifty percent (50%) of
3 the sentence received prior to becoming eligible for state
4 correctional institution earned credits toward the completion of
5 said sentence; or

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

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

18 SECTION 26. AMENDATORY 63 O.S. 2021, Section 2-404, is
19 amended to read as follows:

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

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

24

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

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

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

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

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

17 B. Any person who violates this section is punishable by a
18 civil fine of not more than One Thousand Dollars (\$1,000.00);
19 provided, that, if the violation is prosecuted by an information or
20 indictment which alleges that the violation was committed knowingly
21 or intentionally, and the trier of fact specifically finds that the
22 violation was committed knowingly or intentionally, such person is
23 guilty of a felony punishable by imprisonment for not more than five
24 (5) years, and a fine of not more than Ten Thousand Dollars

1 (\$10,000.00), except that if such person is a corporation it shall
2 be subject to a civil penalty of not more than One Hundred Thousand
3 Dollars (\$100,000.00). The fine provided for in this subsection
4 shall be in addition to other punishments provided by law and shall
5 not be in lieu of other punishment.

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

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

17 SECTION 27. AMENDATORY 63 O.S. 2021, Section 2-405, is
18 amended to read as follows:

19 Section 2-405. A. No person shall use tincture of opium,
20 tincture of opium camphorated, or any derivative thereof, by the
21 hypodermic method, either with or without a medical prescription
22 therefor.

23 B. No person shall use drug paraphernalia to plant, propagate,
24 cultivate, grow, harvest, manufacture, compound, convert, produce,

1 process, prepare, test, analyze, pack, repack, store, contain,
2 conceal, inject, ingest, inhale or otherwise introduce into the
3 human body a controlled dangerous substance in violation of the
4 Uniform Controlled Dangerous Substances Act, except those persons
5 holding an unrevoked license in the professions of podiatry,
6 dentistry, medicine, nursing, optometry, osteopathy, veterinary
7 medicine or pharmacy.

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

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

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

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

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

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

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

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

16 SECTION 28. AMENDATORY 63 O.S. 2021, Section 2-406, is
17 amended to read as follows:

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

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

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

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

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

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

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

21 C. Any person convicted of a second or subsequent violation of
22 this section is punishable by a term of imprisonment twice that
23 otherwise authorized and by twice the fine otherwise authorized.
24 Convictions for second or subsequent violations of this section

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

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

8 SECTION 29. AMENDATORY 63 O.S. 2021, Section 2-407, is
9 amended to read as follows:

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

- 17 1. By fraud, deceit, misrepresentation, or subterfuge;
- 18 2. By the forgery of, alteration of, adding any information to
19 or changing any information on a prescription or of any written
20 order;
- 21 3. By the concealment of a material fact;
- 22 4. By the use of a false name or the giving of a false address;

23 or

24

1 5. By knowingly failing to disclose the receipt of a controlled
2 dangerous substance or a prescription for a controlled dangerous
3 substance of the same or similar therapeutic use from another
4 practitioner within the previous thirty (30) days.

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

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

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

1 E. Convictions for second or subsequent violations of this
2 section shall not be subject to statutory provisions for suspended
3 sentences, deferred sentences, or probation.

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

9 SECTION 30. AMENDATORY 63 O.S. 2021, Section 2-407.1, is
10 amended to read as follows:

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

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

1 C. The provisions of subsections A and B of this section shall
2 not apply to:

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

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

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

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

21 ~~F. Any person convicted of any offense described in this~~
22 ~~section shall, in addition to any fine imposed, pay a special~~
23 ~~assessment trauma-care fee of One Hundred Dollars (\$100.00) to be~~

24

1 ~~deposited into the Trauma Care Assistance Revolving Fund created in~~
2 ~~Section 1-2522 of this title.~~

3 SECTION 31. AMENDATORY 63 O.S. 2021, Section 2-415, is
4 amended to read as follows:

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

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

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

24

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

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

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

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

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

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

24 1. Marijuana:

- 1 a. twenty-five (25) pounds or more of a mixture or
2 substance containing a detectable amount of marijuana
3 shall be punishable by a fine of not less than Twenty-
4 five Thousand Dollars (\$25,000.00) and not more than
5 One Hundred Thousand Dollars (\$100,000.00), or
6 b. one thousand (1,000) pounds or more of a mixture or
7 substance containing a detectable amount of marijuana
8 shall be deemed aggravated trafficking punishable by a
9 fine of not less than One Hundred Thousand Dollars
10 (\$100,000.00) and not more than Five Hundred Thousand
11 Dollars (\$500,000.00);

12 2. Cocaine, coca leaves or cocaine base:

- 13 a. twenty-eight (28) grams or more of a mixture or
14 substance containing a detectable amount of cocaine,
15 coca leaves or cocaine base shall be punishable by a
16 fine of not less than Twenty-five Thousand Dollars
17 (\$25,000.00) and not more than One Hundred Thousand
18 Dollars (\$100,000.00),
19 b. three hundred (300) grams or more of a mixture or
20 substance containing a detectable amount of cocaine,
21 coca leaves or cocaine base shall be punishable by a
22 fine of not less than One Hundred Thousand Dollars
23 (\$100,000.00) and not more than Five Hundred Thousand
24 Dollars (\$500,000.00), or

1 c. four hundred fifty (450) grams or more of a mixture or
2 substance containing a detectable amount of cocaine,
3 coca leaves or cocaine base shall be deemed aggravated
4 trafficking punishable by a fine of not less than One
5 Hundred Thousand Dollars (\$100,000.00) and not more
6 than Five Hundred Thousand Dollars (\$500,000.00);

7 3. Heroin:

- 8 a. ten (10) grams or more of a mixture or substance
9 containing a detectable amount of heroin shall be
10 punishable by a fine of not less than Twenty-five
11 Thousand Dollars (\$25,000.00) and not more than Fifty
12 Thousand Dollars (\$50,000.00), or
13 b. twenty-eight (28) grams or more of a mixture or
14 substance containing a detectable amount of heroin
15 shall be deemed aggravated trafficking punishable by a
16 fine of not less than Fifty Thousand Dollars
17 (\$50,000.00) and not more than Five Hundred Thousand
18 Dollars (\$500,000.00);

19 4. Amphetamine or methamphetamine:

- 20 a. twenty (20) grams or more of a mixture or substance
21 containing a detectable amount of amphetamine or
22 methamphetamine shall be punishable by a fine of not
23 less than Twenty-five Thousand Dollars (\$25,000.00)
24

1 and not more than Two Hundred Thousand Dollars
2 (\$200,000.00),

3 b. two hundred (200) grams or more of a mixture or
4 substance containing a detectable amount of
5 amphetamine or methamphetamine shall be punishable by
6 a fine of not less than Fifty Thousand Dollars
7 (\$50,000.00) and not more than Five Hundred Thousand
8 Dollars (\$500,000.00), or

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

15 5. Lysergic acid diethylamide (LSD):

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

24

1 b. ten (10) grams or more of a mixture or substance
2 containing a detectable amount of lysergic acid
3 diethylamide (LSD) shall be aggravated trafficking
4 punishable by a term of imprisonment in the custody of
5 the Department of Corrections of not less than two (2)
6 years nor more than life and by a fine of not less
7 than One Hundred Thousand Dollars (\$100,000.00) and
8 not more than Two Hundred Fifty Thousand Dollars
9 (\$250,000.00);

10 6. Phencyclidine (PCP):

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

19 b. one hundred fifty (150) grams or more of a substance
20 containing a mixture or substance containing a
21 detectable amount of phencyclidine (PCP) shall be
22 aggravated trafficking punishable by a term of
23 imprisonment in the custody of the Department of
24 Corrections of not less than two (2) years nor more

1 than life and by a fine of not less than Fifty
2 Thousand Dollars (\$50,000.00) and not more than Two
3 Hundred Fifty Thousand Dollars (\$250,000.00);

4 7. Methylenedioxy methamphetamine:

5 a. thirty (30) tablets or ten (10) grams of a mixture or
6 substance containing a detectable amount of 3,4-
7 Methylenedioxy methamphetamine shall be trafficking
8 punishable by a term of imprisonment in the custody of
9 the Department of Corrections not to exceed twenty
10 (20) years and by a fine of not less than Twenty-five
11 Thousand Dollars (\$25,000.00) and not more than One
12 Hundred Thousand Dollars (\$100,000.00), or

13 b. one hundred (100) tablets or thirty (30) grams of a
14 mixture or substance containing a detectable amount of
15 3,4-Methylenedioxy methamphetamine shall be deemed
16 aggravated trafficking punishable by a term of
17 imprisonment in the custody of the Department of
18 Corrections of not less than two (2) years nor more
19 than life by a fine of not less than One Hundred
20 Thousand Dollars (\$100,000.00) and not more than Five
21 Hundred Thousand Dollars (\$500,000.00);

22 8. Morphine: One thousand (1,000) grams or more of a mixture
23 containing a detectable amount of morphine shall be trafficking
24 punishable by a term of imprisonment in the custody of the

1 Department of Corrections not to exceed twenty (20) years and by a
2 fine of not less than One Hundred Thousand Dollars (\$100,000.00) and
3 not more than Five Hundred Thousand Dollars (\$500,000.00);

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

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

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

23 12. Fentanyl and its analogs and derivatives:
24

1 a. one (1) gram or more of a mixture containing fentanyl
2 or carfentanil, or any fentanyl analogs or derivatives
3 shall be trafficking punishable by a term of
4 imprisonment in the custody of the Department of
5 Corrections not to exceed twenty (20) years and by a
6 fine of not less than One Hundred Thousand Dollars
7 (\$100,000.00) and not more than Two Hundred Fifty
8 Thousand Dollars (\$250,000.00), or

9 b. five (5) grams or more of a mixture containing
10 fentanyl or carfentanil, or any fentanyl analogs or
11 derivatives shall be aggravated trafficking punishable
12 by a term of imprisonment in the custody of the
13 Department of Corrections of not less than two (2)
14 years nor more than life and by a fine of not less
15 than Two Hundred Fifty Thousand Dollars (\$250,000.00)
16 and not more than Five Hundred Thousand Dollars
17 (\$500,000.00).

18 D. Any person who violates the provisions of this section with
19 respect to marijuana, cocaine, coca leaves, cocaine base, heroin,
20 amphetamine or methamphetamine in a quantity specified in paragraphs
21 1, 2, 3 and 4 of subsection C of this section shall, in addition to
22 any fines specified by this section, be punishable by a term of
23 imprisonment as follows:
24

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

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

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

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

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

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

24

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 and the assessment pursuant to~~
6 ~~Section 2-503.2 of this title.~~

7 SECTION 32. AMENDATORY 63 O.S. 2021, Section 2-902, is
8 amended to read as follows:

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

18 B. ~~The defendant shall pay to the district attorney a fee equal~~
19 ~~to the amount which would have been assessed as court costs upon~~
20 ~~filing of the case in district court. Funds received by the~~
21 ~~district attorney pursuant to this act shall be deposited in a~~
22 ~~special fund with the county treasurer to be known as the "Drug~~
23 ~~Possession Diversion Program Fund". This fund shall be used by the~~
24 ~~district attorney to defray any lawful expense of the office of the~~

1 ~~district attorney. The district attorney shall keep records of all~~
2 ~~monies deposited to and disbursed from this fund. The records of~~
3 ~~the fund shall be audited at the same time the records of county~~
4 ~~funds are audited.~~

5 ~~C.~~ Unless the agreement between the defendant and the district
6 attorney provides otherwise, the defendant shall be supervised in
7 the community by the district attorney or by a private supervision
8 program pursuant to the provisions of subsection A of Section 991d
9 of Title 22 of the Oklahoma Statutes.

10 SECTION 33. This act shall become effective January 1, 2023.

11 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
12 April 13, 2022 - DO PASS AS AMENDED

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