

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SENATE BILL 1744

By: Weaver

AS INTRODUCED

An Act relating to criminal procedure; amending 22 O.S. 2021, Section 991a, as last amended by Section 2, Chapter 469, O.S.L. 2021, which relates to sentencing powers of court; authorizing court to order certain offender to pay child support; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2021, Section 991a, as last amended by Section 2, Chapter 469, O.S.L. 2021, is amended to read as follows:

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

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

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

1 through 180.4 of Title 60 of the Oklahoma Statutes and
2 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
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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's Revolving Fund to cover
15 administrative costs and shall remit the remainder to
16 the Oklahoma State Bureau of Investigation to be
17 deposited in the OSBI Revolving Fund established by
18 Section 150.19a of Title 74 of the Oklahoma Statutes
19 or to the general fund wherein the other law
20 enforcement agency is located,

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

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

mediators and employees of a victim/offender
reconciliation program shall be immune from liability
and have rights of confidentiality as provided in
Section 1805 of Title 12 of the Oklahoma Statutes,
n. to install, at the expense of the defendant, an
ignition interlock device approved by the Board of
Tests for Alcohol and Drug Influence. The device
shall be installed upon every motor vehicle operated
by the defendant, and the court shall require that a
notation of this restriction be affixed to the
defendant's driver license. The restriction shall
remain on the driver license not exceeding two (2)
years to be determined by the court. The restriction
may be modified or removed only by order of the court
and notice of any modification order shall be given to
the Department of Public Safety. Upon the expiration
of the period for the restriction, the Department of
Public Safety shall remove the restriction without
further court order. Failure to comply with the order
to install an ignition interlock device or operating
any vehicle without a device during the period of
restriction shall be a violation of the sentence and
may be punished as deemed proper by the sentencing
court. As used in this paragraph, "ignition interlock

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

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

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

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

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

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

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

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

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

17 dd. in the case of a person convicted of prostitution
18 pursuant to Section 1029 of Title 21 of the Oklahoma
19 Statutes, require such person to receive counseling
20 for the behavior which may have caused such person to
21 engage in prostitution activities. Such person may be
22 required to receive counseling in areas including but
23 not limited to alcohol and substance abuse, sexual
24

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

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

1 ff. in addition to other sentencing powers of the court,
2 the court in the case of a defendant being sentenced
3 for a felony conviction for a violation of Section 2-
4 402 of Title 63 of the Oklahoma Statutes which
5 involves marijuana may require the person to
6 participate in a drug court program, if available. If
7 a drug court program is not available, the defendant
8 may be required to participate in a community
9 sanctions program, if available,
10 gg. in the case of a person convicted of any false or
11 bogus check violation, as defined in Section 1541.4 of
12 Title 21 of the Oklahoma Statutes, impose a fee of
13 Twenty-five Dollars (\$25.00) to the victim for each
14 check, and impose a bogus check fee to be paid to the
15 district attorney. The bogus check fee paid to the
16 district attorney shall be equal to the amount
17 assessed as court costs plus Twenty-five Dollars
18 (\$25.00) for each check upon filing of the case in
19 district court. This money shall be deposited in the
20 Bogus Check Restitution Program Fund as established in
21 subsection B of Section 114 of this title.
22 Additionally, the court may require the offender to
23 pay restitution and bogus check fees on any other
24

1 bogus check or checks that have been submitted to the
2 Bogus Check Restitution Program, ~~and~~

3 hh. in the case of a person convicted of negligent
4 homicide pursuant to Sections 11-902 and 11-903 of
5 Title 47 of the Oklahoma Statutes, if the victim was a
6 parent of a minor child or children, require the
7 offender to pay child support for such child or
8 children, and

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

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

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

1 a reduction in the fine, costs and costs of prosecution is
2 warranted, the court shall equally apply the same percentage
3 reduction to the fine, costs and costs of prosecution owed by the
4 offender;

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

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

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

20 5. Order the defendant to reimburse the Oklahoma State Bureau
21 of Investigation for all costs incurred by that agency for cleaning
22 up an illegal drug laboratory site for which the defendant pleaded
23 guilty, nolo contendere or was convicted. The court clerk shall
24 collect the amount and may retain five percent (5%) of such monies

1 to be deposited in the Court Clerk's Revolving Fund to cover
2 administrative costs and shall remit the remainder to the Oklahoma
3 State Bureau of Investigation to be deposited in the OSBI Revolving
4 Fund established by Section 150.19a of Title 74 of the Oklahoma
5 Statutes;

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

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

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

- 1 b. to attend a victims impact panel program, as defined
2 in subsection H of this section, and to pay a fee of
3 Seventy-five Dollars (\$75.00) as set by the governing
4 authority of the program and approved by the court, to
5 the program to offset the cost of participation by the
6 defendant, if in the opinion of the court the
7 defendant has the ability to pay such fee,
- 8 c. to both participate in the alcohol and drug substance
9 abuse course or treatment program, pursuant to
10 subparagraph a of this paragraph and attend a victims
11 impact panel program, pursuant to subparagraph b of
12 this paragraph,
- 13 d. to install, at the expense of the person, an ignition
14 interlock device approved by the Board of Tests for
15 Alcohol and Drug Influence, upon every motor vehicle
16 operated by such person and to require that a notation
17 of this restriction be affixed to the person's driver
18 license at the time of reinstatement of the license.
19 The restriction shall remain on the driver license for
20 such period as the court shall determine. The
21 restriction may be modified or removed by order of the
22 court and notice of the order shall be given to the
23 Department of Public Safety. Upon the expiration of
24 the period for the restriction, the Department of

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

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

20 8. In addition to the other sentencing powers of the court, in
21 the case of a person convicted of prostitution pursuant to Section
22 1029 of Title 21 of the Oklahoma Statutes, require such person to
23 receive counseling for the behavior which may have caused such
24 person to engage in prostitution activities. Such person may be

1 required to receive counseling in areas including but not limited to
2 alcohol and substance abuse, sexual behavior problems or domestic
3 abuse or child abuse problems;

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

11 10. In addition to the other sentencing powers of the court,
12 the court, in the case of a sex offender sentenced after November 1,
13 1989, and required by law to register pursuant to the Sex Offenders
14 Registration Act, shall require the defendant to participate in a
15 treatment program designed specifically for the treatment of sex
16 offenders, if available. The treatment program will include
17 polygraph examinations specifically designed for use with sex
18 offenders for the purpose of supervision and treatment compliance,
19 provided the examination is administered by a certified licensed
20 polygraph examiner. The treatment program must be approved by the
21 Department of Corrections or the Department of Mental Health and
22 Substance Abuse Services. Such treatment shall be at the expense of
23 the defendant based on the ability of the defendant to pay;
24

1 11. In addition to the other sentencing powers of the court,
2 the court, in the case of a person convicted of abuse or neglect of
3 a child, as defined in Section 1-1-105 of Title 10A of the Oklahoma
4 Statutes, may require the person to undergo treatment or to
5 participate in counseling services. The defendant may be required
6 to pay all or part of the cost of the treatment or counseling
7 services;

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

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

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

1 prohibit the person from accessing or using any Internet social
2 networking website that has the potential or likelihood of allowing
3 the sex offender to have contact with any child who is under the age
4 of eighteen (18) years;

5 15. In addition to the other sentencing powers of the court, in
6 the case of a sex offender who is required by law to register
7 pursuant to the Sex Offenders Registration Act, the court shall
8 require the person to register any electronic mail address
9 information, instant message, chat or other Internet communication
10 name or identity information that the person uses or intends to use
11 while accessing the Internet or used for other purposes of social
12 networking or other similar Internet communication; or

13 16. In addition to the other sentencing powers of the court,
14 and pursuant to the terms and conditions of a written plea
15 agreement, the court may prohibit the defendant from entering,
16 visiting or residing within the judicial district in which the
17 defendant was convicted until after completion of his or her
18 sentence; provided, however, the court shall ensure that the
19 defendant has access to those services or programs for which the
20 defendant is required to participate as a condition of probation.
21 When seeking to enter the prohibited judicial district for personal
22 business not related to his or her criminal case, the defendant
23 shall be required to obtain approval by the court.
24

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 defendants being sentenced upon their third or subsequent
20 to their third conviction of a felony or, beginning January 1, 1993,
21 to defendants being sentenced for their second or subsequent felony
22 conviction for violation of Section 11-902 of Title 47 of the
23 Oklahoma Statutes, except as otherwise provided in this subsection.
24 In the case of a person being sentenced for his or her second or

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

11 D. When sentencing a person convicted of a crime, the judge
12 shall consider any victim impact statements if submitted to the
13 jury, or the judge in the event a jury is waived.

14 E. Probation, for purposes of subsection A of this section, is
15 a procedure by which a defendant found guilty of a crime, whether
16 upon a verdict or plea of guilty or upon a plea of nolo contendere,
17 is released by the court subject to conditions imposed by the court
18 and subject to supervision by the Department of Corrections, a
19 private supervision provider or other person designated by the
20 court. Such supervision shall be initiated upon an order of
21 probation from the court, and shall not exceed two (2) years, unless
22 a petition alleging a violation of any condition of deferred
23 judgment or seeking revocation of the suspended sentence is filed
24 during the supervision, or as otherwise provided by law. In the

1 case of a person convicted of a sex offense, supervision shall begin
2 immediately upon release from incarceration or if parole is granted
3 and shall not be limited to two (2) years. Provided further, any
4 supervision provided for in this section may be extended for a
5 period not to exceed the expiration of the maximum term or terms of
6 the sentence upon a determination by the court or the Division of
7 Probation and Parole of the Department of Corrections that the best
8 interests of the public and the release will be served by an
9 extended period of supervision.

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

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

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

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

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

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

20 H. As used in this section:

21 1. "Ignition interlock device" means a device that, without
22 tampering or intervention by another person, would prevent the
23 defendant from operating a motor vehicle if the defendant has a
24

1 blood or breath alcohol concentration of two-hundredths (0.02) or
2 greater;

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

8 3. "Victims impact panel program" means a program conducted by
9 a corporation registered with the Secretary of State in Oklahoma for
10 the sole purpose of operating a victims impact panel program. The
11 program shall include live presentations from presenters who will
12 share personal stories with participants about how alcohol, drug
13 abuse, the operation of a motor vehicle while using an electronic
14 communication device or the illegal conduct of others has personally
15 impacted the lives of the presenters. A victims impact panel
16 program shall be attended by persons who have committed the offense
17 of driving, operating or being in actual physical control of a motor
18 vehicle while under the influence of alcohol or other intoxicating
19 substance, operating a motor vehicle while the ability of the person
20 to operate such vehicle was impaired due to the consumption of
21 alcohol or any other substance or operating a motor vehicle while
22 using an electronic device or by persons who have been convicted of
23 furnishing alcoholic beverage to persons under twenty-one (21) years
24 of age, as provided in Sections 6-101 and 6-120 of Title 37A of the

1 Oklahoma Statutes. Persons attending a victims impact panel program
2 shall be required to pay a fee of Seventy-five Dollars (\$75.00) to
3 the 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. The certificate
6 of completion shall contain the business identification number of
7 the program provider. A certified assessment agency, certified
8 assessor or provider of an alcohol and drug substance abuse course
9 shall be prohibited from providing a victims impact panel program
10 and shall further be prohibited from having any proprietary or
11 pecuniary interest in a victims impact panel program. The provider
12 of the victims impact panel program shall carry general liability
13 insurance and maintain an accurate accounting of all business
14 transactions and funds received in relation to the victims impact
15 panel program. Beginning October 1, 2020, and each October 1
16 thereafter, the provider of the victims impact panel program shall
17 provide to the District Attorneys Council the following:

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

1 e. a registration fee of One Thousand Dollars
2 (\$1,000.00). The registration fee shall be deposited
3 in the District Attorneys Council Revolving Fund
4 created in Section 215.28 of Title 19 of the Oklahoma
5 Statutes, and

6 f. a statement certifying that the provider of the
7 victims impact panel program has complied with all of
8 the requirements set forth in this paragraph.

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

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

22 Any person who is incarcerated in the custody of the Department
23 of Corrections after July 1, 1996, and who has not been released
24 before January 1, 2006, shall provide a blood or saliva sample prior
25

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

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

1 OSBI Combined DNA Index System (CODIS) Database. Any fees collected
2 pursuant to this subsection shall be deposited in the revolving
3 account or the service fee account of the collection agency or
4 department.

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

10 SECTION 2. This act shall become effective November 1, 2022.
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