

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 HOUSE BILL 1651

By: Humphrey

4
5
6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22
8 O.S. 2011, Section 991a, as last amended by Section
9 1, Chapter 46, O.S.L. 2020 (22 O.S. Supp. 2020,
10 Section 991a), which relates to sentencing powers of
11 the court; deleting certain sentencing option; and
12 providing an effective date.

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

14 SECTION 1. AMENDATORY 22 O.S. 2011, Section 991a, as
15 last amended by Section 1, Chapter 46, O.S.L. 2020 (22 O.S. Supp.
16 2020, Section 991a), is 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. g. 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.~~ h. 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.~~ i. 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.~~ j. 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.~~ k. 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.~~ l. 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

1 mediators and employees of a victim/offender
2 reconciliation program shall be immune from liability
3 and have rights of confidentiality as provided in
4 Section 1805 of Title 12 of the Oklahoma Statutes,
5 n. m. to install, at the expense of the defendant, an
6 ignition interlock device approved by the Board of
7 Tests for Alcohol and Drug Influence. The device
8 shall be installed upon every motor vehicle operated
9 by the defendant, and the court shall require that a
10 notation of this restriction be affixed to the
11 defendant's driver license. The restriction shall
12 remain on the driver license not exceeding two (2)
13 years to be determined by the court. The restriction
14 may be modified or removed only by order of the court
15 and notice of any modification order shall be given to
16 the Department of Public Safety. Upon the expiration
17 of the period for the restriction, the Department of
18 Public Safety shall remove the restriction without
19 further court order. Failure to comply with the order
20 to install an ignition interlock device or operating
21 any vehicle without a device during the period of
22 restriction shall be a violation of the sentence and
23 may be punished as deemed proper by the sentencing
24 court. 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 ~~e.~~ n. to be confined by electronic monitoring administered
7 and supervised by the Department of Corrections or a
8 community sentence provider, and payment of a
9 monitoring fee to the supervising authority, not to
10 exceed Three Hundred Dollars (\$300.00) per month. Any
11 fees collected pursuant to this paragraph shall be
12 deposited with the appropriate supervising authority.
13 Any willful violation of an order of the court for the
14 payment of the monitoring fee shall be a violation of
15 the sentence and may be punished as deemed proper by
16 the sentencing court. As used in this paragraph,
17 "electronic monitoring" means confinement of the
18 defendant within a specified location or locations
19 with supervision by means of an electronic device
20 approved by the Department of Corrections which is
21 designed to detect if the defendant is in the court-
22 ordered location at the required times and which
23 records violations for investigation by a qualified
24 supervisory agency or person,

1 ~~p.~~ o. 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.~~ p. to submit to periodic testing for alcohol,
20 intoxicating substance, or controlled dangerous
21 substances by a qualified laboratory,

22 ~~r.~~ q. to pay a fee, costs for treatment, education,
23 supervision, participation in a program, or any
24

1 combination thereof as determined by the court, based
2 upon the defendant's ability to pay the fees or costs,
3 ~~s.~~ r. to be supervised by a Department of Corrections
4 employee, a private supervision provider, or other
5 person designated by the court,
6 ~~t.~~ s. to obtain positive behavior modeling by a trained
7 mentor,
8 ~~u.~~ t. to serve a term of confinement in a restrictive
9 housing facility available in the community,
10 ~~v.~~ u. 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.~~ v. to obtain employment or participate in employment-
14 related activities,
15 ~~x.~~ w. 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.~~ x. 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.~~ y. to submit to blood or saliva testing as required by
4 subsection I of this section,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24

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

9 B. Notwithstanding any other provision of law, any person who
10 is found guilty of a violation of any provision of Section 761 or
11 11-902 of Title 47 of the Oklahoma Statutes or any person pleading
12 guilty or nolo contendere for a violation of any provision of such
13 sections shall be ordered to participate in, prior to sentencing, an
14 alcohol and drug assessment and evaluation by an assessment agency
15 or assessment personnel certified by the Department of Mental Health
16 and Substance Abuse Services for the purpose of evaluating the
17 receptivity to treatment and prognosis of the person. The court
18 shall order the person to reimburse the agency or assessor for the
19 evaluation. The fee shall be the amount provided in subsection C of
20 Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation
21 shall be conducted at a certified assessment agency, the office of a
22 certified assessor or at another location as ordered by the court.
23 The agency or assessor shall, within seventy-two (72) hours from the
24 time the person is assessed, submit a written report to the court

1 for the purpose of assisting the court in its final sentencing
2 determination. No person, agency or facility operating an alcohol
3 and drug substance abuse evaluation program certified by the
4 Department of Mental Health and Substance Abuse Services shall
5 solicit or refer any person evaluated pursuant to this subsection
6 for any treatment program or alcohol and drug substance abuse
7 service in which such person, agency or facility has a vested
8 interest; however, this provision shall not be construed to prohibit
9 the court from ordering participation in or any person from
10 voluntarily utilizing a treatment program or alcohol and drug
11 substance abuse service offered by such person, agency or facility.
12 If a person is sentenced to the custody of the Department of
13 Corrections and the court has received a written evaluation report
14 pursuant to this subsection, the report shall be furnished to the
15 Department of Corrections with the judgment and sentence. Any
16 evaluation report submitted to the court pursuant to this subsection
17 shall be handled in a manner which will keep such report
18 confidential from the general public's review. Nothing contained in
19 this subsection shall be construed to prohibit the court from
20 ordering judgment and sentence in the event the defendant fails or
21 refuses to comply with an order of the court to obtain the
22 evaluation required by this subsection.

23 C. When sentencing a person convicted of a crime, the court
24 shall first consider a program of restitution for the victim, as

1 well as imposition of a fine or incarceration of the offender. The
2 provisions of paragraph 1 of subsection A of this section shall not
3 apply to defendants being sentenced upon their third or subsequent
4 to their third conviction of a felony or, beginning January 1, 1993,
5 to defendants being sentenced for their second or subsequent felony
6 conviction for violation of Section 11-902 of Title 47 of the
7 Oklahoma Statutes, except as otherwise provided in this subsection.
8 In the case of a person being sentenced for his or her second or
9 subsequent felony conviction for violation of Section 11-902 of
10 Title 47 of the Oklahoma Statutes, the court may sentence the person
11 pursuant to the provisions of paragraph 1 of subsection A of this
12 section if the court orders the person to submit to electronically
13 monitored home detention administered and supervised by the
14 Department of Corrections pursuant to subparagraph e of paragraph 7
15 of subsection A of this section. Provided, the court may waive
16 these prohibitions upon written application of the district
17 attorney. Both the application and the waiver shall be made part of
18 the record of the case.

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

22 E. Probation, for purposes of subsection A of this section, is
23 a procedure by which a defendant found guilty of a crime, whether
24 upon a verdict or plea of guilty or upon a plea of nolo contendere,

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

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

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~~ program
6 pursuant to this section shall be eligible to participate in a
7 county ~~Program~~ program; provided, participation in county-funded
8 ~~Programs~~ 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~~ programs. A county
13 may apply to the Department for a contract for a county-funded
14 ~~Program~~ program for a specific period of time. The Department shall
15 be responsible for ensuring that any contracting county complies in
16 full with specifications and requirements of the contract. The
17 contract shall set appropriate compensation to the county for
18 services to the Department.

19 4. The Department is hereby authorized to provide technical
20 assistance to any county in establishing a ~~Program~~ program,
21 regardless of whether the county enters into a contract pursuant to
22 this 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~~ programs, the number of participating
4 offenders, the success rates of each ~~Program~~ program according to
5 criteria established by the Department and the costs of each ~~Program~~
6 program.

7 H. As used in this section:

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

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

18 3. "Victims impact panel program" means a program conducted by
19 a corporation registered with the Secretary of State in Oklahoma for
20 the sole purpose of operating a victims impact panel program. The
21 program shall include live presentations from presenters who will
22 share personal stories with participants about how alcohol, drug
23 abuse, the operation of a motor vehicle while using an electronic
24 communication device or the illegal conduct of others has personally

1 impacted the lives of the presenters. A victims impact panel
2 program shall be attended by persons who have committed the offense
3 of driving, operating or being in actual physical control of a motor
4 vehicle while under the influence of alcohol or other intoxicating
5 substance, operating a motor vehicle while the ability of the person
6 to operate such vehicle was impaired due to the consumption of
7 alcohol or any other substance or operating a motor vehicle while
8 using an electronic device. Persons attending a victims impact
9 panel program shall be required to pay a fee of Seventy-five Dollars
10 (\$75.00) to the provider of the program. A certificate of
11 completion shall be issued to the person upon satisfying the
12 attendance and fee requirements of the victims impact panel program.
13 The certificate of completion shall contain the business
14 identification number of the program provider. A certified
15 assessment agency, certified assessor or provider of an alcohol and
16 drug substance abuse course shall be prohibited from providing a
17 victims impact panel program and shall further be prohibited from
18 having any proprietary or pecuniary interest in a victims impact
19 panel program. The provider of the victims impact panel program
20 shall carry general liability insurance and maintain an accurate
21 accounting of all business transactions and funds received in
22 relation to the victims impact panel program. Beginning October 1,
23 2020, and each October 1 thereafter, the provider of the victims
24

1 impact panel program shall provide to the District Attorneys Council
2 the following:

3 a. proof of registration with the Oklahoma Secretary of
4 State,

5 b. proof of general liability insurance,

6 c. end-of-year financial statements prepared by a
7 certified public accountant,

8 d. a copy of federal income tax returns filed with the
9 Internal Revenue Service,

10 e. a registration fee of One Thousand Dollars
11 (\$1,000.00). The registration fee shall be deposited
12 in the District Attorneys Council Revolving Fund
13 created in Section 215.28 of Title 19 of the Oklahoma
14 Statutes, and

15 f. a statement certifying that the provider of the
16 victims impact panel program has complied with all of
17 the requirements set forth in this paragraph.

18 I. A person convicted of a felony offense or receiving any form
19 of probation for an offense in which registration is required
20 pursuant to the Sex Offenders Registration Act, shall submit to
21 deoxyribonucleic acid (DNA) testing for law enforcement
22 identification purposes in accordance with Section 150.27 of Title
23 74 of the Oklahoma Statutes and the rules promulgated by the
24 Oklahoma State Bureau of Investigation for the OSBI Combined DNA

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

1 previously submitted to DNA testing under this section and for whom
2 a valid sample is on file in the OSBI Combined DNA Index System
3 (CODIS) Database at the time of sentencing shall not be required to
4 submit to additional testing. Except as required by the Sex
5 Offenders Registration Act, a deferred judgment does not require
6 submission to DNA testing.

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

17 J. Samples of blood or saliva for DNA testing required by
18 subsection I of this section shall be taken by employees or
19 contractors of the Department of Corrections, peace officers, or the
20 county sheriff or employees or contractors of the sheriff's office.
21 The individuals shall be properly trained to collect blood or saliva
22 samples. Persons collecting blood or saliva for DNA testing
23 pursuant to this section shall be immune from civil liabilities
24 arising from this activity. All collectors of DNA samples shall

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

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

19 SECTION 2. This act shall become effective November 1, 2021.
20

21 58-1-6379 GRS 12/15/20
22
23
24