

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

HOUSE BILL 3655

By: McDugle

AS INTRODUCED

An Act relating to law enforcement; consolidating the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and the Oklahoma State Bureau of Investigation; providing for interpretation of certain statutory references; transferring personnel, funds, records, encumbrances, equipment, and other items; providing requirements pertaining to transfer of employees; providing for transition coordinators and a transition team; providing duties of the transition team; amending 20 O.S. 2011, Section 1313.2, as last amended by Section 1, Chapter 343, O.S.L. 2017 (20 O.S. Supp. 2017, Section 1313.2), which relates to fee assessments for persons convicted of certain crimes; modifying name of revolving fund; amending 47 O.S. 2011, Section 2-300, as amended by Section 1, Chapter 383, O.S.L. 2015 (47 O.S. Supp. 2017, Section 2-300), which relates to definitions for the Law Enforcement Retirement System; modifying scope of certain definition; amending 63 O.S. 2011, Sections 2-101, as last amended by Section 1, Chapter 43, O.S.L. 2017, 2-102, 2-103, as last amended by Section 1, Chapter 390, O.S.L. 2017, 2-103.1, as amended by Section 1, Chapter 143, O.S.L. 2013, 2-105, as amended by Section 2, Chapter 305, O.S.L. 2015, 2-106, as amended by Section 1, Chapter 340, O.S.L. 2013, 2-106.1, as amended by Section 496, Chapter 304, O.S.L. 2012, 2-106.2, 2-107, as amended by Section 497, Chapter 304, O.S.L. 2012, 2-107a, 2-107b, as amended by Section 498, Chapter 304, O.S.L. 2012, 2-109, 2-109a, 2-110, as amended by Section 46, Chapter 259, O.S.L. 2012, 2-111, 2-212, as last amended by Section 4, Chapter 181, O.S.L. 2013, 2-302, 2-303, 2-304, as amended by Section 1, Chapter 1, O.S.L. 2015, 2-309, as last amended by Section 1, Chapter 323, O.S.L.

1 2013, 2-309B, 2-309C, as last amended by Section 73,
Chapter 15, O.S.L. 2013, 2-309D, as last amended by
2 Section 35, Chapter 210, O.S.L. 2016, 2-309E, 2-309F,
as amended by Section 2, Chapter 340, O.S.L. 2013, 2-
3 309G, 2-309H, 2-315, as amended by Section 6, Chapter
305, O.S.L. 2015, 2-322, 2-323, 2-324, 2-326, 2-329,
4 as amended by Section 3, Chapter 83, O.S.L. 2012, 2-
330, 2-331, 2-332, as amended by Section 6, Chapter
5 181, O.S.L. 2013, 2-333, Section 1, Chapter 206,
O.S.L. 2012, 2-502, as amended by Section 5, Chapter
6 390, O.S.L. 2017, 2-503, as amended by Section 5,
Chapter 154, O.S.L. 2014, 2-503.1b, 2-503.1i, 2-
7 503.1j, 2-505, as amended by Section 1, Chapter 25,
O.S.L. 2017, 2-506, as last amended by Section 1,
8 Chapter 225, O.S.L. 2016, 2-508, as last amended by
Section 2, Chapter 284, O.S.L. 2014, 2-509, as
9 amended by Section 2, Chapter 25, O.S.L. 2017, 2-701,
as last amended by Section 7, Chapter 181, O.S.L.
10 2013, Section 4, Chapter 203, O.S.L. 2015 and Section
7, Chapter 203, O.S.L. 2015 (63 O.S. Supp. 2017,
11 Sections 2-101, 2-103, 2-103.1, 2-105, 2-106, 2-
106.1, 2-107, 2-107b, 2-110, 2-212, 2-304, 2-309, 2-
12 309C, 2-309D, 2-309F, 2-315, 2-329, 2-332, 2-341, 2-
502, 2-503, 2-505, 2-506, 2-508, 2-509, 2-701, 2-802
13 and 2-805), which relate to the Uniform Controlled
Dangerous Substances Act; eliminating references to
14 the Oklahoma State Bureau of Narcotics and Dangerous
Drugs Control and replacing said references with the
15 Oklahoma State Bureau of Investigation; updating
statutory references; providing gender-neutral
16 language; repealing 63 O.S. 2011, Section 2-104.1,
which relates to the Oklahoma State Bureau of
17 Narcotics and Dangerous Drugs Control Commission;
providing for codification; providing for
18 noncodification; and providing an effective date.

19
20 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

21 SECTION 1. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 2-102b of Title 63, unless there
23 is created a duplication in numbering, reads as follows:
24

1 A. The Oklahoma State Bureau of Narcotics and Dangerous Drugs
2 Control is hereby consolidated with the Oklahoma State Bureau of
3 Investigation. Any reference in the Oklahoma Statutes to the
4 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control shall
5 be deemed to be a reference to the Oklahoma State Bureau of
6 Investigation unless otherwise required by the context of the
7 reference.

8 B. All assets, funds, liabilities, allotments, purchase orders,
9 outstanding financial obligations, encumbrances, records, aircraft,
10 vehicles, equipment, and other property of the Oklahoma State Bureau
11 of Narcotics and Dangerous Drugs Control are hereby transferred to
12 the Oklahoma State Bureau of Investigation.

13 C. Personnel employed by the Oklahoma State Bureau of Narcotics
14 and Dangerous Drugs Control on November 1, 2018, shall be
15 transferred to the Oklahoma State Bureau of Investigation pursuant
16 to a transition plan implemented by the Oklahoma State Bureau of
17 Narcotics and Dangerous Drugs Control as required by Section 2 of
18 this act.

19 D. The classified and unclassified employees who are
20 transferred pursuant to this section shall be subject to the
21 following provisions:

22 1. Classified employees shall remain subject to the provisions
23 of the Merit System of Personnel Administration, as provided in the
24 Oklahoma Personnel Act;

1 2. Unclassified employees transferred to the Oklahoma State
2 Bureau of Narcotics and Dangerous Drugs Control shall remain in the
3 unclassified service and shall serve at the pleasure of the Director
4 of the Oklahoma State Bureau of Investigation;

5 3. All employees who are transferred pursuant to this act shall
6 retain leave, sick and annual time earned and any retirement and
7 longevity benefits which have accrued during their employment with
8 the state. The salaries of employees who are transferred shall not
9 be reduced as a direct and immediate result of the transfer;

10 4. If the Oklahoma State Bureau of Investigation should
11 implement a reduction in force, all employees transferred pursuant
12 to this act shall be credited for the time they were employed by the
13 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control; and

14 5. The transfer of personnel shall be coordinated with the
15 Office of Management and Enterprise Services.

16 SECTION 2. NEW LAW A new section of law not to be
17 codified in the Oklahoma Statutes reads as follows:

18 A. The Director of the Oklahoma State Bureau of Investigation
19 and the Director of the Oklahoma State Bureau of Narcotics and
20 Dangerous Drugs Control shall serve as transition coordinators and
21 shall establish a transition team to coordinate the orderly transfer
22 of duties, personnel, property, funds, and encumbrances from and
23 consolidation of the Oklahoma State Bureau of Narcotics and
24 Dangerous Drugs Control to the Oklahoma State Bureau of

1 Investigation. Each Director may assign personnel to the transition
2 team from each Director's respective agency as deemed necessary.

3 B. The transition team shall:

4 1. In conjunction with the Office of Management and Enterprise
5 Services, oversee and administer the orderly transfer of
6 responsibilities, assets, funds, liabilities, allotments, purchase
7 orders, aircraft, vehicles and other property, records, personnel
8 and any outstanding financial obligations or encumbrances to the
9 Oklahoma State Bureau of Investigation from the Oklahoma State
10 Bureau of Narcotics and Dangerous Drugs Control;

11 2. Review functions currently assigned to or managed by the
12 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and
13 the Oklahoma State Bureau of Investigation;

14 3. Establish a plan for the transfer of employees from the
15 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control to
16 the Oklahoma State Bureau of Investigation. The plan shall include
17 a list of positions to be transferred. The plan also shall include
18 a reduction-in-force plan and a severance benefits plan that conform
19 with the requirements of the State Government Reduction-in-Force and
20 Severance Benefits Act; and

21 4. Take such other action as may be reasonably necessary and
22 appropriate to effectuate the orderly transition of functions as
23 provided by this act.

24

1 SECTION 3. AMENDATORY 20 O.S. 2011, Section 1313.2, as
2 last amended by Section 1, Chapter 343, O.S.L. 2017 (20 O.S. Supp.
3 2017, Section 1313.2), is amended to read as follows:

4 Section 1313.2 A. As used in this section:

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

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

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

12 4. "DNA" means Deoxyribonucleic acid.

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

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

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

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

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

14 b. the Office of the Chief Medical Examiner who shall
15 deposit the monies into the Chief Medical Examiner
16 Revolving Fund provided for in Section 954 of Title 63
17 of the Oklahoma Statutes for services rendered or
18 administered by the Office of the Chief Medical
19 Examiner, or

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

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

24 a. providing criminalistic laboratory services,

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

8 D. Upon conviction or bond forfeiture, the court shall collect
9 the fee provided for in subsection B of this section and deposit it
10 in an account created for that purpose. Except as otherwise
11 provided in subsection E of this section, monies shall be forwarded
12 monthly by the court clerk to the Council on Law Enforcement
13 Education and Training (CLEET). Beginning July 1, 2003, deposits
14 shall be due on the fifteenth day of each month for the preceding
15 calendar month. There shall be a late fee imposed for failure to
16 make timely deposits; provided, CLEET, in its discretion, may waive
17 all or part of the late fee. Such late fee shall be one percent
18 (1%) of the principal amount due per day beginning from the tenth
19 day after payment is due and accumulating until the late fee reaches
20 one hundred percent (100%) of the principal amount due. Beginning
21 on July 1, 1987, ninety percent (90%) of the monies received by
22 CLEET from the court clerks pursuant to this section shall be
23 deposited in the CLEET Fund, and ten percent (10%) shall be
24 deposited in the General Revenue Fund. Beginning January 1, 2001,

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

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

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

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

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

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

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

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

24

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

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

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

14 SECTION 4. AMENDATORY 47 O.S. 2011, Section 2-300, as
15 amended by Section 1, Chapter 383, O.S.L. 2015 (47 O.S. Supp. 2017,
16 Section 2-300), is amended to read as follows:

17 Section 2-300. As used in Section 2-300 et seq. of this title:

18 1. "System" means the Oklahoma Law Enforcement Retirement
19 System;

20 2. "Act" means Section 2-300 et seq. of this title;

21 3. "Board" means the Oklahoma Law Enforcement Retirement Board
22 of the System;

23 4. "Executive Director" means the managing officer of the
24 System employed by the Board;

1 5. "Fund" means the Oklahoma Law Enforcement Retirement Fund;

2 6. a. "Member" means:

3 (1) all commissioned law enforcement officers of the
4 Oklahoma Highway Patrol Division of the
5 Department of Public Safety who have obtained
6 certification from the Council on Law Enforcement
7 Education and Training, and all cadets of a
8 Patrol Academy of the Department of Public
9 Safety,

10 (2) law enforcement officers and criminalists of the
11 Oklahoma State Bureau of Investigation,

12 (3) law enforcement officers of the Oklahoma State
13 Bureau of Narcotics and Dangerous Drugs Control
14 transferred to the Oklahoma State Bureau of
15 Investigation on November 1, 2018, designated to
16 perform duties in the investigation and
17 prevention of crime and the enforcement of the
18 criminal laws of this state,

19 (4) law enforcement officers of the Oklahoma
20 Alcoholic Beverage Laws Enforcement Commission
21 designated to perform duties in the investigation
22 and prevention of crime and the enforcement of
23 the criminal laws of this state,
24

- 1 (5) employees of the Communications Section of the
2 Oklahoma Highway Patrol Division, radio
3 technicians, and tower technicians of the
4 Department of Public Safety, who are employed in
5 any such capacity as of June 30, 2008, and who
6 remain employed on or after July 1, 2008, until a
7 termination of service, or until a termination of
8 service with an election of a vested benefit from
9 the System, or until retirement. Effective July
10 1, 2008, a person employed for the first time as
11 an employee of the Department of Public Safety in
12 the Communications Division as an information
13 systems telecommunication technician of the
14 Department of Public Safety shall not be a member
15 of the System,
- 16 (6) park rangers of the Oklahoma Tourism and
17 Recreation Department and any park manager or
18 park supervisor of the Oklahoma Tourism and
19 Recreation Department who was employed in such a
20 position prior to July 1, 1985, and who elects on
21 or before September 1, 1996, to participate in
22 the System, and
- 23 (7) inspectors of the Board of Pharmacy.
24

1 b. Effective July 1, 1987, a member does not include a
2 "leased employee" as defined under Section 414(n) (2)
3 of the Internal Revenue Code of 1986, as amended.
4 Effective July 1, 1999, any individual who agrees with
5 the participating employer that the individual's
6 services are to be performed as a leased employee or
7 an independent contractor shall not be a member
8 regardless of any classification as a common-law
9 employee by the Internal Revenue Service or any other
10 governmental agency, or any court of competent
11 jurisdiction.

12 c. All persons who shall be offered a position of a
13 commissioned law enforcement officer as an employee of
14 one of the agencies described in subparagraph a of
15 this paragraph shall participate in the System upon
16 the person meeting the requisite post-offer-pre-
17 employment physical examination standards which shall
18 be subject to the following requirements:

- 19 (1) all such persons shall be of good moral
20 character, free from deformities, mental or
21 physical conditions, or disease and alcohol or
22 drug addiction which would prohibit the person
23 from performing the duties of a law enforcement
24 officer,

1 (2) the physical-medical examination shall pertain to
2 age, sight, hearing, agility and other conditions
3 the requirements of which shall be established by
4 the Board,

5 (3) the person shall be required to meet the
6 conditions of this subsection prior to the
7 beginning of actual employment but after an offer
8 of employment has been tendered by a
9 participating employer,

10 (4) the Board shall have authority to deny or revoke
11 membership of any person submitting false
12 information in such person's membership
13 application, and

14 (5) the Board shall have final authority in
15 determining eligibility for membership in the
16 System, pursuant to the provisions of this
17 subsection;

18 7. "Normal retirement date" means the date at which the member
19 is eligible to receive the unreduced payments of the member's
20 accrued retirement benefit. Such date shall be the first day of the
21 month coinciding with or following the date the member:

- 22 a. completes twenty (20) years of vesting service, or
23 b. attains sixty-two (62) years of age with ten (10)
24 years of vesting service, or

1 c. attains sixty-two (62) years of age, if:

2 (1) the member has been transferred to this System
3 from the Oklahoma Public Employees Retirement
4 System on or after July 1, 1981, and

5 (2) the member would have been vested had the member
6 continued to be a member of the Oklahoma Public
7 Employees Retirement System.

8 With respect to distributions under the System made for calendar
9 years beginning on or after January 1, 2005, the System shall apply
10 the minimum distribution incidental benefit requirements, incidental
11 benefit requirements, and minimum distribution requirements of
12 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,
13 in accordance with the final regulations under Section 401(a)(9) of
14 the Internal Revenue Code of 1986, as amended, which were issued in
15 April 2002 and June 2004, notwithstanding any provision of the
16 System to the contrary. With respect to distributions under the
17 System made for calendar years beginning on or after January 1,
18 2001, through December 31, 2004, the System shall apply the minimum
19 distribution requirements and incidental benefit requirements of
20 Section 401(a)(9) of the Internal Revenue Code of 1986, as amended,
21 in accordance with the regulations under Section 401(a)(9) of the
22 Internal Revenue Code of 1986, as amended, which were proposed in
23 January 2001, notwithstanding any provision of the System to the
24 contrary.

1 Effective July 1, 1989, notwithstanding any other provision
2 contained herein to the contrary, in no event shall commencement of
3 distribution of the accrued retirement benefit of a member be
4 delayed beyond April 1 of the calendar year following the later of:
5 (1) the calendar year in which the member reaches seventy and one-
6 half (70 1/2) years of age; or (2) the actual retirement date of the
7 member. The preceding sentence does not allow deferral of benefit
8 commencement beyond the age of sixty-five (65).

9 Effective September 8, 2009, notwithstanding anything to the
10 contrary of the System, the System, which as a governmental plan
11 (within the meaning of Section 414(d) of the Internal Revenue Code
12 of 1986, as amended), is treated as having complied with Section
13 401(a) (9) of the Internal Revenue Code of 1986, as amended, for all
14 years to which Section 401(a) (9) of the Internal Revenue Code of
15 1986, as amended, applies to the System if the System complies with
16 a reasonable and good faith interpretation of Section 401(a) (9) of
17 the Internal Revenue Code of 1986, as amended.

18 A member who was required to join the System effective July 1,
19 1980, because of the transfer of the employing agency from the
20 Oklahoma Public Employees Retirement System to the System, and was
21 not a member of the Oklahoma Public Employees Retirement System on
22 the date of such transfer shall be allowed to receive credit for
23 prior law enforcement service rendered to this state, if the member
24 is not receiving or eligible to receive retirement credit or

1 benefits for such service in any other public retirement system,
2 upon payment to the System of the employee contribution the member
3 would have been subject to had the member been a member of the
4 System at the time, plus five percent (5%) interest. Service credit
5 received pursuant to this paragraph shall be used in determining the
6 member's retirement benefit, and shall be used in determining years
7 of service for retirement or vesting purposes;

8 8. "Actual paid base salary" means the salary received by a
9 member, excluding payment for any accumulated leave or uniform
10 allowance. Salary shall include any amount of nonelective salary
11 reduction under Section 414(h) of the Internal Revenue Code of 1986;

12 9. "Final average salary" means the average of the highest
13 thirty (30) consecutive complete months of actual paid gross salary.
14 Gross salary shall include any amount of elective salary reduction
15 under Section 457 of the Internal Revenue Code of 1986, as amended,
16 and any amount of nonelective salary reduction under Section 414(h)
17 of the Internal Revenue Code of 1986, as amended. Effective July 1,
18 1992, gross salary shall include any amount of elective salary
19 reduction under Section 125 of the Internal Revenue Code of 1986, as
20 amended. Effective July 1, 1998, gross salary shall include any
21 amount of elective salary reduction not includable in the gross
22 income of the member under Section 132(f)(4) of the Internal Revenue
23 Code of 1986, as amended. Effective July 1, 1998, for purposes of
24 determining a member's compensation, any contribution by the member

1 to reduce his or her regular cash remuneration under Section
2 132(f)(4) of the Internal Revenue Code of 1986, as amended, shall be
3 treated as if the member did not make such an election. Only salary
4 on which required contributions have been made may be used in
5 computing the final average salary. Gross salary shall not include
6 severance pay.

7 In addition to other applicable limitations, and notwithstanding
8 any other provision to the contrary, for plan years beginning on or
9 after July 1, 2002, the annual gross salary of each ~~"Noneligible~~
10 ~~Member"~~ noneligible member taken into account under the System shall
11 not exceed the Economic Growth and Tax Relief Reconciliation Act of
12 2001 ("~~EGTRRA~~") annual salary limit. The EGTRRA annual salary limit
13 is Two Hundred Thousand Dollars (\$200,000.00), as adjusted by the
14 Commissioner for increases in the cost of living in accordance with
15 Section 401(a)(17)(B) of the Internal Revenue Code of 1986, as
16 amended. The annual salary limit in effect for a calendar year
17 applies to any period, not exceeding twelve (12) months, over which
18 salary is determined ("~~determination period~~") beginning in such
19 calendar year. If a determination period consists of fewer than
20 twelve (12) months, the EGTRRA salary limit will be multiplied by a
21 fraction, the numerator of which is the number of months in the
22 determination period, and the denominator of which is twelve (12).
23 For purposes of this section, a ~~"Noneligible Member"~~ noneligible

24

1 member is any member who first became a member during a plan year
2 commencing on or after July 1, 1996.

3 For plan years beginning on or after July 1, 2002, any reference
4 in the System to the annual salary limit under Section 401(a)(17) of
5 the Internal Revenue Code of 1986, as amended, shall mean the EGTRRA
6 salary limit set forth in this provision.

7 Effective January 1, 2008, gross salary for a plan year shall
8 also include gross salary, as described above, for services, but
9 paid by the later of two and one-half (2 1/2) months after a
10 member's severance from employment or the end of the calendar year
11 that includes the date the member terminated employment, if it is a
12 payment that, absent a severance from employment, would have been
13 paid to the member while the member continued in employment with the
14 employer.

15 Effective January 1, 2008, any payments not described above
16 shall not be considered gross salary if paid after severance from
17 employment, even if they are paid by the later of two and one-half
18 (2 1/2) months after the date of severance from employment or the
19 end of the calendar year that includes the date of severance from
20 employment, except payments to an individual who does not currently
21 perform services for the employer by reason of qualified military
22 service within the meaning of Section 414(u)(5) of the Internal
23 Revenue Code of 1986, as amended, to the extent these payments do
24 not exceed the amounts the individual would have received if the

1 individual had continued to perform services for the employer rather
2 than entering qualified military service.

3 Effective January 1, 2008, back pay, within the meaning of
4 Section 1.415(c)-2(g)(8) of the Income Tax Regulations, shall be
5 treated as gross salary for the limitation year to which the back
6 pay relates to the extent the back pay represents wages and
7 compensation that would otherwise be included in this definition.

8 Effective for years beginning after December 31, 2008, gross
9 salary shall also include differential wage payments under Section
10 414(u)(12) of the Internal Revenue Code of 1986, as amended;

11 10. "Credited service" means the period of service used to
12 determine the amount of benefits payable to a member. Credited
13 service shall consist of the period during which the member
14 participated in the System or the predecessor Plan as an active
15 employee in an eligible membership classification, plus any service
16 prior to the establishment of the predecessor Plan which was
17 credited under the predecessor Plan and for law enforcement officers
18 and criminalists of the Oklahoma State Bureau of Investigation and
19 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control
20 who became members of the System on July 1, 1980, any service
21 credited under the Oklahoma Public Employees Retirement System as of
22 June 30, 1980, and for members of the Communications and Lake Patrol
23 Divisions of the Oklahoma Department of Public Safety, who became
24 members of the System on July 1, 1981, any service credited under

1 the predecessor Plan or the Oklahoma Public Employees Retirement
2 System as of June 30, 1981, and for law enforcement officers of the
3 Alcoholic Beverage Laws Enforcement Commission who became members of
4 the System on July 1, 1982, any service credited under the Oklahoma
5 Public Employees Retirement System as of June 30, 1982, and for park
6 rangers of the Oklahoma Tourism and Recreation Department who became
7 members of the System on July 1, 1985, any service credited under
8 the Oklahoma Public Employees Retirement System as of June 30, 1985,
9 and for inspectors of the Oklahoma State Board of Pharmacy who
10 became members of the System on July 1, 1986, any service credited
11 under the Oklahoma Public Employees Retirement System as of June 30,
12 1986, for law enforcement officers of the Oklahoma Capitol Patrol
13 Division of the Department of Public Safety who became members of
14 the System effective July 1, 1993, any service credited under the
15 Oklahoma Public Employees Retirement System as of June 30, 1993, and
16 for all commissioned officers in the Gunsmith/Ammunition Reloader
17 Division of the Department of Public Safety who became members of
18 the System effective July 1, 1994, any service credited under the
19 Oklahoma Public Employees Retirement System as of June 30, 1994, and
20 for the park managers or park supervisors of the Oklahoma Tourism
21 and Recreation Department who were employed in such a position prior
22 to July 1, 1985, and who elect to become members of the System
23 effective September 1, 1996, any service credit transferred pursuant
24 to subsection C of Section 2-309.6 of this title and any service

1 credit purchased pursuant to subsection B of Section 2-307.2 of this
2 title. Effective August 5, 1993, an authorized leave of absence
3 shall include a period of absence pursuant to the Family and Medical
4 Leave Act of 1993;

5 11. "Disability" means a physical or mental condition which, in
6 the judgment of the Board, totally and presumably permanently
7 prevents the member from engaging in the usual and customary duties
8 of the occupation of the member and thereafter prevents the member
9 from performing the duties of any occupation or service for which
10 the member is qualified by reason of training, education or
11 experience. A person is not under a disability when capable of
12 performing a service to the employer, regardless of occupation,
13 providing the salary of the employee is not diminished thereby;

14 12. "Limitation year" means the year used in applying the
15 limitations of Section 415 of the Internal Revenue Code of 1986,
16 which year shall be the calendar year;

17 13. "Line of duty" means any action which a member whose
18 primary function is crime control or reduction or enforcement of the
19 criminal law is obligated or authorized by rule, regulations,
20 condition of employment or service, or law to perform, including
21 those social, ceremonial, or athletic functions to which the member
22 is assigned, or for which the member is compensated, by the agency
23 the member serves;

24

1 14. "Personal injury" or "injury" means any traumatic injury as
2 well as diseases which are caused by or result from such an injury,
3 but not occupational diseases;

4 15. "Catastrophic nature" means consequences of an injury that
5 permanently prevent an individual from performing any gainful work;

6 16. "Traumatic injury" means a wound or a condition of the body
7 caused by external force, including injuries inflicted by bullets,
8 explosives, sharp instruments, blunt objects or other physical
9 blows, chemicals, electricity, climatic conditions, infectious
10 diseases, radiation, and bacteria, but excluding stress and strain;
11 and

12 17. "Beneficiary" means the individual designated by the member
13 on a beneficiary designation form supplied by the Oklahoma Law
14 Enforcement Retirement System, or if there is no designated
15 beneficiary or if the designated beneficiary predeceases the member,
16 the estate of the member. If the member's spouse is not designated
17 as the sole primary beneficiary, the member's spouse must sign a
18 consent.

19 SECTION 5. AMENDATORY 63 O.S. 2011, Section 2-101, as
20 last amended by Section 1, Chapter 43, O.S.L. 2017 (63 O.S. Supp.
21 2017, Section 2-101), is amended to read as follows:

22 Section 2-101. As used in the Uniform Controlled Dangerous
23 Substances Act:

1 1. "Administer" means the direct application of a controlled
2 dangerous substance, whether by injection, inhalation, ingestion or
3 any other means, to the body of a patient, animal or research
4 subject by:

5 a. a practitioner (or, in the presence of the
6 practitioner, by the authorized agent of the
7 practitioner), or

8 b. the patient or research subject at the direction and
9 in the presence of the practitioner;

10 2. "Agent" means a peace officer appointed by and who acts on
11 behalf of the Director of the Oklahoma State Bureau of ~~Narcotics and~~
12 ~~Dangerous Drugs Control~~ Investigation or an authorized person who
13 acts on behalf of or at the direction of a person who manufactures,
14 distributes, dispenses, prescribes, administers or uses for
15 scientific purposes controlled dangerous substances but does not
16 include a common or contract carrier, public warehouse or employee
17 thereof, or a person required to register under the Uniform
18 Controlled Dangerous Substances Act;

19 3. ~~"Board" means the Advisory Board to the Director of the~~
20 ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;~~

21 4. "Bureau" means the Oklahoma State Bureau of ~~Narcotics and~~
22 ~~Dangerous Drugs Control~~ Investigation;

23 5. 4. "Coca leaves" includes cocaine and any compound,
24 manufacture, salt, derivative, mixture or preparation of coca

1 leaves, except derivatives of coca leaves which do not contain
2 cocaine or ecgonine;

3 5. "Commission" means the Oklahoma State Bureau of
4 Investigation Commission;

5 6. "Commissioner" or "Director" means the Director of the
6 Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~
7 Investigation;

8 7. "Control" means to add, remove or change the placement of a
9 drug, substance or immediate precursor under the Uniform Controlled
10 Dangerous Substances Act;

11 8. "Controlled dangerous substance" means a drug, substance or
12 immediate precursor in Schedules I through V of the Uniform
13 Controlled Dangerous Substances Act or any drug, substance or
14 immediate precursor listed either temporarily or permanently as a
15 federally controlled substance. Any conflict between state and
16 federal law with regard to the particular schedule in which a
17 substance is listed shall be resolved in favor of state law;

18 9. "Counterfeit substance" means a controlled substance which,
19 or the container or labeling of which without authorization, bears
20 the trademark, trade name or other identifying marks, imprint,
21 number or device or any likeness thereof of a manufacturer,
22 distributor or dispenser other than the person who in fact
23 manufactured, distributed or dispensed the substance;

24

1 10. "Deliver" or "delivery" means the actual, constructive or
2 attempted transfer from one person to another of a controlled
3 dangerous substance or drug paraphernalia, whether or not there is
4 an agency relationship;

5 11. "Dispense" means to deliver a controlled dangerous
6 substance to an ultimate user or human research subject by or
7 pursuant to the lawful order of a practitioner, including the
8 prescribing, administering, packaging, labeling or compounding
9 necessary to prepare the substance for such distribution.

10 "Dispenser" is a practitioner who delivers a controlled dangerous
11 substance to an ultimate user or human research subject;

12 12. "Distribute" means to deliver other than by administering
13 or dispensing a controlled dangerous substance;

14 13. "Distributor" means a commercial entity engaged in the
15 distribution or reverse distribution of narcotics and dangerous
16 drugs and who complies with all regulations promulgated by the
17 federal Drug Enforcement Administration and the Oklahoma State
18 Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation;

19 14. "Drug" means articles:

- 20 a. recognized in the official United States
21 Pharmacopoeia, official Homeopathic Pharmacopoeia of
22 the United States, or official National Formulary, or
23 any supplement to any of them,

1 b. intended for use in the diagnosis, cure, mitigation,
2 treatment or prevention of disease in man or other
3 animals,

4 c. other than food, intended to affect the structure or
5 any function of the body of man or other animals, and

6 d. intended for use as a component of any article
7 specified in this paragraph;

8 provided, however, the term "drug" does not include devices or their
9 components, parts or accessories;

10 15. "Drug-dependent person" means a person who is using a
11 controlled dangerous substance and who is in a state of psychic or
12 physical dependence, or both, arising from administration of that
13 controlled dangerous substance on a continuous basis. Drug
14 dependence is characterized by behavioral and other responses which
15 include a strong compulsion to take the substance on a continuous
16 basis in order to experience its psychic effects, or to avoid the
17 discomfort of its absence;

18 16. "Home care agency" means any sole proprietorship,
19 partnership, association, corporation, or other organization which
20 administers, offers, or provides home care services, for a fee or
21 pursuant to a contract for such services, to clients in their place
22 of residence;

23 17. "Home care services" means skilled or personal care
24 services provided to clients in their place of residence for a fee;

1 18. "Hospice" means a centrally administered, nonprofit or
2 profit, medically directed, nurse-coordinated program which provides
3 a continuum of home and inpatient care for the terminally ill
4 patient and the patient's family. Such term shall also include a
5 centrally administered, nonprofit or profit, medically directed,
6 nurse-coordinated program if such program is licensed pursuant to
7 the provisions of this act. A hospice program offers palliative and
8 supportive care to meet the special needs arising out of the
9 physical, emotional and spiritual stresses which are experienced
10 during the final stages of illness and during dying and bereavement.
11 This care is available twenty-four (24) hours a day, seven (7) days
12 a week, and is provided on the basis of need, regardless of ability
13 to pay. "Class A" Hospice refers to Medicare certified hospices.
14 "Class B" refers to all other providers of hospice services;

15 19. "Imitation controlled substance" means a substance that is
16 not a controlled dangerous substance, which by dosage unit
17 appearance, color, shape, size, markings or by representations made,
18 would lead a reasonable person to believe that the substance is a
19 controlled dangerous substance. In the event the appearance of the
20 dosage unit is not reasonably sufficient to establish that the
21 substance is an "imitation controlled substance", the court or
22 authority concerned should consider, in addition to all other
23 factors, the following factors as related to "representations made"

24

1 in determining whether the substance is an "imitation controlled
2 substance":

- 3 a. statements made by an owner or by any other person in
4 control of the substance concerning the nature of the
5 substance, or its use or effect,
- 6 b. statements made to the recipient that the substance
7 may be resold for inordinate profit,
- 8 c. whether the substance is packaged in a manner normally
9 used for illicit controlled substances,
- 10 d. evasive tactics or actions utilized by the owner or
11 person in control of the substance to avoid detection
12 by law enforcement authorities,
- 13 e. prior convictions, if any, of an owner, or any other
14 person in control of the object, under state or
15 federal law related to controlled substances or fraud,
16 and
- 17 f. the proximity of the substances to controlled
18 dangerous substances;

19 20. "Immediate precursor" means a substance which the Director
20 has found to be and by regulation designates as being the principal
21 compound commonly used or produced primarily for use, and which is
22 an immediate chemical intermediary used, or likely to be used, in
23 the manufacture of a controlled dangerous substance, the control of
24 which is necessary to prevent, curtail or limit such manufacture;

1 21. "Laboratory" means a laboratory approved by the Director as
2 proper to be entrusted with the custody of controlled dangerous
3 substances and the use of controlled dangerous substances for
4 scientific and medical purposes and for purposes of instruction;

5 22. "Manufacture" means the production, preparation,
6 propagation, compounding or processing of a controlled dangerous
7 substance, either directly or indirectly by extraction from
8 substances of natural or synthetic origin, or independently by means
9 of chemical synthesis or by a combination of extraction and chemical
10 synthesis. "Manufacturer" includes any person who packages,
11 repackages or labels any container of any controlled dangerous
12 substance, except practitioners who dispense or compound
13 prescription orders for delivery to the ultimate consumer;

14 23. "Marihuana" means all parts of the plant *Cannabis sativa*
15 L., whether growing or not; the seeds thereof; the resin extracted
16 from any part of such plant; and every compound, manufacture, salt,
17 derivative, mixture or preparation of such plant, its seeds or
18 resin, but shall not include:

- 19 a. the mature stalks of such plant or fiber produced from
20 such stalks,
21 b. oil or cake made from the seeds of such plant,
22 including cannabidiol derived from the seeds of the
23 marihuana plant,
24

- 1 c. any other compound, manufacture, salt, derivative,
2 mixture or preparation of such mature stalks (except
3 the resin extracted therefrom), including cannabidiol
4 derived from mature stalks, fiber, oil or cake,
- 5 d. the sterilized seed of such plant which is incapable
6 of germination,
- 7 e. for any person participating in a clinical trial to
8 administer cannabidiol for the treatment of severe
9 forms of epilepsy pursuant to Section 2-802 of this
10 title, a drug or substance approved by the federal
11 Food and Drug Administration for use by those
12 participants,
- 13 f. for any person or the parents, legal guardians or
14 caretakers of the person who have received a written
15 certification from a physician licensed in this state
16 that the person has been diagnosed by a physician as
17 having Lennox-Gastaut Syndrome, Dravet Syndrome, also
18 known as Severe Myoclonic Epilepsy of Infancy, or any
19 other severe form of epilepsy that is not adequately
20 treated by traditional medical therapies, spasticity
21 due to multiple sclerosis or due to paraplegia,
22 intractable nausea and vomiting, appetite stimulation
23 with chronic wasting diseases, the substance
24 cannabidiol, a nonpsychoactive cannabinoid, found in

1 the plant Cannabis sativa L. or any other preparation
2 thereof, that has a tetrahydrocannabinol concentration
3 of not more than three-tenths of one percent (0.3%)
4 and that is delivered to the patient in the form of a
5 liquid,

6 g. any cannabidiol drug or substance approved by the
7 federal Food and Drug ~~Administration-approved~~
8 ~~cannabidiol drug or substance~~ Administration, or

9 h. industrial hemp, from the plant Cannabis sativa L. and
10 any part of such plant, whether growing or not, with a
11 delta-9 tetrahydrocannabinol concentration of not more
12 than three-tenths of one percent (0.3%) on a dry
13 weight basis which shall not be grown anywhere in the
14 State of Oklahoma but may be shipped to Oklahoma
15 pursuant to the provisions of subparagraph e or f of
16 this paragraph;

17 24. "Medical purpose" means an intention to utilize a
18 controlled dangerous substance for physical or mental treatment, for
19 diagnosis, or for the prevention of a disease condition not in
20 violation of any state or federal law and not for the purpose of
21 satisfying physiological or psychological dependence or other abuse;

22 25. "Mid-level practitioner" means an advanced practice
23 registered nurse as defined and within parameters specified in
24 Section 567.3a of Title 59 of the Oklahoma Statutes, or a ~~certified~~

1 an animal euthanasia technician as defined in Section 698.2 of Title
2 59 of the Oklahoma Statutes, or an animal control officer registered
3 by the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs~~
4 ~~Control~~ Investigation under subsection B of Section 2-301 of this
5 title within the parameters of such officer's duty under Sections
6 501 through 508 of Title 4 of the Oklahoma Statutes;

7 26. "Narcotic drug" means any of the following, whether
8 produced directly or indirectly by extraction from substances of
9 vegetable origin, or independently by means of chemical synthesis,
10 or by a combination of extraction and chemical synthesis:

- 11 a. opium, coca leaves and opiates,
- 12 b. a compound, manufacture, salt, derivative or
13 preparation of opium, coca leaves or opiates,
- 14 c. cocaine, its salts, optical and geometric isomers, and
15 salts of isomers,
- 16 d. ecgonine, its derivatives, their salts, isomers and
17 salts of isomers, and
- 18 e. a substance, and any compound, manufacture, salt,
19 derivative or preparation thereof, which is chemically
20 identical with any of the substances referred to in
21 subparagraphs a through d of this paragraph, except
22 that the words "narcotic drug" as used in Section 2-
23 101 et seq. of this title shall not include

1 decocainized coca leaves or extracts of coca leaves,
2 which extracts do not contain cocaine or ecgonine;

3 27. "Opiate" means any substance having an addiction-forming or
4 addiction-sustaining liability similar to morphine or being capable
5 of conversion into a drug having such addiction-forming or
6 addiction-sustaining liability. It does not include, unless
7 specifically designated as controlled under the Uniform Controlled
8 Dangerous Substances Act, the dextrorotatory isomer of 3-methoxy-n-
9 methyl-morphinan and its salts (dextromethorphan). It does include
10 its racemic and levorotatory forms;

11 28. "Opium poppy" means the plant of the species *Papaver*
12 *somniferum* L., except the seeds thereof;

13 29. "Peace officer" means a police officer, sheriff, deputy
14 sheriff, district attorney's investigator, investigator from the
15 Office of the Attorney General, or any other person elected or
16 appointed by law to enforce any of the criminal laws of this state
17 or of the United States;

18 30. "Person" means an individual, corporation, government or
19 governmental subdivision or agency, business trust, estate, trust,
20 partnership or association, or any other legal entity;

21 31. "Poppy straw" means all parts, except the seeds, of the
22 opium poppy, after mowing;

23 32. "Practitioner" means:

24 a. (1) a medical doctor or osteopathic physician,

- 1 (2) a dentist,
- 2 (3) a podiatrist,
- 3 (4) an optometrist,
- 4 (5) a veterinarian,
- 5 (6) a physician assistant under the supervision of a
- 6 licensed medical doctor or osteopathic physician,
- 7 (7) a scientific investigator, or
- 8 (8) any other person,

9 licensed, registered or otherwise permitted to
10 prescribe, distribute, dispense, conduct research with
11 respect to, use for scientific purposes or administer
12 a controlled dangerous substance in the course of
13 professional practice or research in this state, or

- 14 b. a pharmacy, hospital, laboratory or other institution
- 15 licensed, registered or otherwise permitted to
- 16 distribute, dispense, conduct research with respect
- 17 to, use for scientific purposes or administer a
- 18 controlled dangerous substance in the course of
- 19 professional practice or research in this state;

20 33. "Production" includes the manufacture, planting,
21 cultivation, growing or harvesting of a controlled dangerous
22 substance;

23 34. "State" means the State of Oklahoma or any other state of
24 the United States;

1 35. "Ultimate user" means a person who lawfully possesses a
2 controlled dangerous substance for the person's own use or for the
3 use of a member of the person's household or for administration to
4 an animal owned by the person or by a member of the person's
5 household;

6 36. "Drug paraphernalia" means all equipment, products and
7 materials of any kind which are used, intended for use, or fashioned
8 specifically for use in planting, propagating, cultivating, growing,
9 harvesting, manufacturing, compounding, converting, producing,
10 processing, preparing, testing, analyzing, packaging, repackaging,
11 storing, containing, concealing, injecting, ingesting, inhaling or
12 otherwise introducing into the human body, a controlled dangerous
13 substance in violation of the Uniform Controlled Dangerous
14 Substances Act including, but not limited to:

- 15 a. kits used, intended for use, or fashioned specifically
16 for use in planting, propagating, cultivating, growing
17 or harvesting of any species of plant which is a
18 controlled dangerous substance or from which a
19 controlled dangerous substance can be derived,
- 20 b. kits used, intended for use, or fashioned specifically
21 for use in manufacturing, compounding, converting,
22 producing, processing or preparing controlled
23 dangerous substances,

- 1 c. isomerization devices used, intended for use, or
2 fashioned specifically for use in increasing the
3 potency of any species of plant which is a controlled
4 dangerous substance,
- 5 d. testing equipment used, intended for use, or fashioned
6 specifically for use in identifying, or in analyzing
7 the strength, effectiveness or purity of controlled
8 dangerous substances,
- 9 e. scales and balances used, intended for use, or
10 fashioned specifically for use in weighing or
11 measuring controlled dangerous substances,
- 12 f. diluents and adulterants, such as quinine
13 hydrochloride, mannitol, mannite, dextrose and
14 lactose, used, intended for use, or fashioned
15 specifically for use in cutting controlled dangerous
16 substances,
- 17 g. separation gins and sifters used, intended for use, or
18 fashioned specifically for use in removing twigs and
19 seeds from, or in otherwise cleaning or refining,
20 marihuana,
- 21 h. blenders, bowls, containers, spoons and mixing devices
22 used, intended for use, or fashioned specifically for
23 use in compounding controlled dangerous substances,
24

- 1 i. capsules, balloons, envelopes and other containers
2 used, intended for use, or fashioned specifically for
3 use in packaging small quantities of controlled
4 dangerous substances,
- 5 j. containers and other objects used, intended for use,
6 or fashioned specifically for use in parenterally
7 injecting controlled dangerous substances into the
8 human body,
- 9 k. hypodermic syringes, needles and other objects used,
10 intended for use, or fashioned specifically for use in
11 parenterally injecting controlled dangerous substances
12 into the human body,
- 13 l. objects used, intended for use, or fashioned
14 specifically for use in ingesting, inhaling or
15 otherwise introducing marihuana, cocaine, hashish or
16 hashish oil into the human body, such as:
- 17 (1) metal, wooden, acrylic, glass, stone, plastic or
18 ceramic pipes with or without screens, permanent
19 screens, hashish heads or punctured metal bowls,
- 20 (2) water pipes,
- 21 (3) carburetion tubes and devices,
- 22 (4) smoking and carburetion masks,
- 23 (5) roach clips, meaning objects used to hold burning
24 material, such as a marihuana cigarette, that has

1 become too small or too short to be held in the
2 hand,

3 (6) miniature cocaine spoons and cocaine vials,

4 (7) chamber pipes,

5 (8) carburetor pipes,

6 (9) electric pipes,

7 (10) air-driven pipes,

8 (11) chillums,

9 (12) bongs, or

10 (13) ice pipes or chillers,

11 m. all hidden or novelty pipes, and

12 n. any pipe that has a tobacco bowl or chamber of less
13 than one-half (1/2) inch in diameter in which there is
14 any detectable residue of any controlled dangerous
15 substance as defined in this section or any other
16 substances not legal for possession or use;

17 provided, however, the term "drug paraphernalia" shall not include
18 separation gins intended for use in preparing tea or spice, clamps
19 used for constructing electrical equipment, water pipes designed for
20 ornamentation in which no detectable amount of an illegal substance
21 is found or pipes designed and used solely for smoking tobacco,
22 traditional pipes of an American Indian tribal religious ceremony,
23 or antique pipes that are thirty (30) years of age or older;

24 37. a. "Synthetic controlled substance" means a substance:

- 1 (1) the chemical structure of which is substantially
2 similar to the chemical structure of a controlled
3 dangerous substance in Schedule I or II,
4 (2) which has a stimulant, depressant, or
5 hallucinogenic effect on the central nervous
6 system that is substantially similar to or
7 greater than the stimulant, depressant or
8 hallucinogenic effect on the central nervous
9 system of a controlled dangerous substance in
10 Schedule I or II, or
11 (3) with respect to a particular person, which such
12 person represents or intends to have a stimulant,
13 depressant, or hallucinogenic effect on the
14 central nervous system that is substantially
15 similar to or greater than the stimulant,
16 depressant, or hallucinogenic effect on the
17 central nervous system of a controlled dangerous
18 substance in Schedule I or II.

19 b. The designation of gamma butyrolactone or any other
20 chemical as a precursor, pursuant to Section 2-322 of
21 this title, does not preclude a finding pursuant to
22 subparagraph a of this paragraph that the chemical is
23 a synthetic controlled substance.

24 c. "Synthetic controlled substance" does not include:

- 1 (1) a controlled dangerous substance,
2 (2) any substance for which there is an approved new
3 drug application,
4 (3) with respect to a particular person any
5 substance, if an exemption is in effect for
6 investigational use, for that person under the
7 provisions of Section 505 of the Federal Food,
8 Drug and Cosmetic Act, Title 21 of the United
9 States Code, Section 355, to the extent conduct
10 with respect to such substance is pursuant to
11 such exemption, or
12 (4) any substance to the extent not intended for
13 human consumption before such an exemption takes
14 effect with respect to that substance.

15 d. Prima facie evidence that a substance containing
16 salvia divinorum has been enhanced, concentrated or
17 chemically or physically altered shall give rise to a
18 rebuttable presumption that the substance is a
19 synthetic controlled substance;

20 38. "Tetrahydrocannabinols" means all substances that have been
21 chemically synthesized to emulate the tetrahydrocannabinols of
22 marihuana;

23 39. "Isomer" means the optical isomer, except as used in
24 subsections C and F of Section 2-204 of this title and paragraph 4

1 of subsection A of Section 2-206 of this title. As used in
2 subsections C and F of Section 2-204 of this title, "isomer" means
3 the optical, positional or geometric isomer. As used in paragraph 4
4 of subsection A of Section 2-206 of this title, the term "isomer"
5 means the optical or geometric isomer;

6 40. "Hazardous materials" means materials, whether solid,
7 liquid or gas, which are toxic to human, animal, aquatic or plant
8 life, and the disposal of which materials is controlled by state or
9 federal guidelines; and

10 41. "Anhydrous ammonia" means any substance that exhibits
11 cryogenic evaporative behavior and tests positive for ammonia.

12 SECTION 6. AMENDATORY 63 O.S. 2011, Section 2-102, is
13 amended to read as follows:

14 Section 2-102. ~~There is hereby established the~~ The Oklahoma
15 State Bureau of Narcotics and Dangerous Drugs Control is hereby
16 consolidated with the Oklahoma State Bureau of Investigation. All
17 references in the Oklahoma Statutes to the Oklahoma State Bureau of
18 Narcotics and Dangerous Drugs Control shall be deemed to be a
19 reference to the Oklahoma State Bureau of Investigation unless
20 otherwise required by the context of the reference.

21 SECTION 7. AMENDATORY 63 O.S. 2011, Section 2-103, as
22 last amended by Section 1, Chapter 390, O.S.L. 2017 (63 O.S. Supp.
23 2017, Section 2-103), is amended to read as follows:

24

1 Section 2-103. A. The Director shall be appointed by the
2 Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~
3 Investigation Commission. The Director of Narcotics and Dangerous
4 Drugs Control on January 1, 1984, shall be initially appointed as
5 Director. The succeeding Director shall, at the time of the
6 appointment, have a Bachelor's Degree from an accredited college or
7 university and at least five (5) years of experience in drug law
8 enforcement. The Director may appoint necessary assistants, agents,
9 and other personnel to perform the work of the office and may
10 prescribe their titles and duties and fix their compensation
11 pursuant to Merit System rules. The Director may appoint employees
12 to the positions of Chief of Law Enforcement Information and
13 Technology, Public Information/Education Officer, Training Officer,
14 Program Administrators, Grants Administrator, Criminal Analysts,
15 Legal Secretary, and Typist Clerk/Spanish Transcriptionists. The
16 positions shall be unclassified and exempt from the rules and
17 procedures of the Office of Management and Enterprise Services,
18 except leave regulations. The office of the Director shall be
19 located at a suitable place in Oklahoma City, Oklahoma.

20 B. 1. Agents appointed by the Director shall have the powers
21 of peace officers generally; provided, the Director may appoint
22 special agents and reserve special agents, who shall be unclassified
23 employees of the state, to meet specific investigatory needs.
24 Special agents and reserve special agents shall not be required to

1 meet the age and educational requirements as specified in this
2 section.

3 2. Agents appointed on and after November 1, 1998, shall be at
4 least twenty-one (21) years of age and shall have a Bachelor's
5 Degree from an accredited college or university.

6 3. Each entering agent, with the exception of special agents,
7 shall be required to serve one (1) year in a probationary status as
8 a prerequisite to being placed on permanent status.

9 C. Agents appointed pursuant to the provisions of this section
10 shall have the responsibility of investigating alleged violations
11 and shall have the authority to arrest those suspected of having
12 violated the provisions of the Uniform Controlled Dangerous
13 Substances Act, as well as the crimes of money laundering and human
14 trafficking, as otherwise set forth by laws of this state.

15 D. The Director may appoint reserve special agents who shall
16 not be considered employees of the state and shall serve at the will
17 of the Director. Reserve special agents shall complete a minimum of
18 two hundred forty (240) hours of training pursuant to Section 3311
19 of Title 70 of the Oklahoma Statutes and may not serve more than one
20 hundred forty (140) hours per calendar month. Upon completion of
21 training, reserve special agents appointed by the Director shall
22 have general peace officer powers and the authority to arrest those
23 suspected of having violated the provisions of the Uniform
24 Controlled Dangerous Substances Act. The agency may expend funds

1 related to training and special reserve agents may receive travel
2 expenses pursuant to the State Travel Reimbursement Act.

3 E. A commissioned employee of the Oklahoma State Bureau of
4 ~~Narcotics and Dangerous Drugs Control~~ Investigation shall be
5 entitled to receive, upon retirement by reason of length of service,
6 the continued custody and possession of the sidearm and badge
7 carried by such employee immediately prior to retirement.

8 F. A commissioned employee of the Bureau may be entitled to
9 receive, upon retirement by reason of disability, the continued
10 custody and possession of the sidearm and badge carried by such
11 employee immediately prior to retirement upon written approval of
12 the Director.

13 G. Custody and possession of the sidearm and badge of a
14 commissioned employee killed in the line of duty may be awarded by
15 the Director to the spouse or next of kin of the deceased employee.

16 H. Custody and possession of the sidearm and badge of a
17 commissioned employee who dies while employed at the Oklahoma State
18 Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation may be
19 awarded by the Director to the spouse or next of kin of the deceased
20 employee.

21 I. Any Director appointed on or after July 1, 2003, shall be
22 eligible to participate in either the Oklahoma Public Employees
23 Retirement System or in the Oklahoma Law Enforcement Retirement
24

1 System and shall make an irrevocable election in writing to
2 participate in one of the two retirement systems.

3 J. Any employee of the Oklahoma State Bureau of ~~Narcotics and~~
4 ~~Dangerous Drugs Control~~ Investigation in a classified position under
5 the Merit System of the Personnel Administration who is appointed
6 Director, Deputy Director, Acting Director or Acting Deputy Director
7 shall have a right to return to the highest previously held
8 classified position without any loss of rights, privileges or
9 benefits immediately upon completion of the duties of the employee,
10 provided the employee is not otherwise disqualified.

11 SECTION 8. AMENDATORY 63 O.S. 2011, Section 2-103.1, as
12 amended by Section 1, Chapter 143, O.S.L. 2013 (63 O.S. Supp. 2017,
13 Section 2-103.1), is amended to read as follows:

14 Section 2-103.1 A. In any investigation relating to the
15 ~~functions of the Oklahoma State Bureau of Narcotics and Dangerous~~
16 ~~Drugs Control pursuant to the~~ provisions of the Uniform Controlled
17 Dangerous Substances Act with respect to controlled substances or
18 other provisions of Oklahoma law with respect to the crimes of money
19 laundering and human trafficking, the Director of the Oklahoma State
20 Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation, if
21 recommended and approved by a chief agent of the Bureau and the
22 legal counsel of the Bureau, may subpoena witnesses, compel the
23 attendance and testimony of witnesses, and require the production of
24 any records, including books, papers, documents, and other tangible

1 things which constitute or contain evidence, which the Director or
2 agent finds relevant or material to the investigation. The
3 attendance of witnesses and the production of records may be
4 required from any place in the state to a designated location in the
5 county seat of the county of which the subpoenaed person is an
6 inhabitant or in which the subpoenaed person carries on business or
7 may be found. Witnesses summoned pursuant to this section shall be
8 paid the same fees and mileage that are paid witnesses in the courts
9 of this state.

10 B. The witness shall have the option of complying with said
11 subpoena by:

- 12 1. Appearing and/or producing documents, as requested; or
- 13 2. Notifying the Bureau, in writing, of refusal to appear or
14 produce documents, within ten (10) days of the date of service.

15 The subpoena form shall clearly set forth the optional means of
16 compliance including instructions for sending written notice of
17 refusal.

18 C. A subpoena issued pursuant to this section may be served by
19 any person designated in the subpoena to serve it. Service upon a
20 natural person may be made by personal delivery of the subpoena to
21 him. Service may be made upon a domestic or foreign corporation or
22 upon a partnership or other unincorporated association which is
23 subject to suit under a common name, by delivering the subpoena to
24 an officer, to a managing or general agent, or to any other agent

1 authorized by appointment or by law to receive service of process.
2 The affidavit of the person serving the subpoena entered on a true
3 copy thereof by the person serving it shall be proof of service.

4 D. In the case of contumacy by or refusal to obey a subpoena
5 issued to any person, the Director may invoke the aid of any
6 district court of the state within the jurisdiction of which the
7 investigation is carried on or of which the subpoenaed person is an
8 inhabitant, or in which he carries on business or may be found, to
9 compel compliance with the subpoena. The court may issue an order
10 requiring the subpoenaed person to appear before the Director to
11 produce records, if so ordered, or to give testimony touching the
12 matter under investigation. Any failure to obey the order of the
13 court may be punished by the court as an indirect contempt thereof.
14 All process in any such case may be served in any judicial district
15 in which such person may be found.

16 E. The district court of the county wherein the subpoena is
17 served may quash a subpoena issued pursuant to this section, upon a
18 motion to quash the subpoena filed with the court by the party to
19 whom the subpoena is issued.

20 SECTION 9. AMENDATORY 63 O.S. 2011, Section 2-105, as
21 amended by Section 2, Chapter 305, O.S.L. 2015 (63 O.S. Supp. 2017,
22 Section 2-105), is amended to read as follows:

23 Section 2-105. A. It shall be the duty of all departments,
24 officers, agencies, and employees of the state to cooperate with the

1 Director of the Oklahoma State Bureau of ~~Narcotics and Dangerous~~
2 ~~Drugs Control~~ Investigation in carrying out the functions of the
3 office. The State Medical Examiner shall promptly report to the
4 offices of the Director of the Oklahoma State Bureau of ~~Narcotics~~
5 ~~and Dangerous Drugs Control~~ Investigation, the Executive Director of
6 the State Board of Medical Licensure and Supervision and the
7 Executive Director of the State Board of Osteopathic Examiners all
8 deaths occurring within the state which were the result or probable
9 result of abuse of a controlled dangerous substance.

10 B. The Bureau shall be required to compile a yearly report of
11 all fatal and nonfatal drug overdoses for the State of Oklahoma.
12 All registrants, as defined in the Anti-Drug Diversion Act, shall
13 report any person appearing at a medical facility with a drug
14 overdose to the central repository as provided in the Anti-Drug
15 Diversion Act. The determination of a drug overdose shall be made
16 solely at the discretion of the treating medical professional based
17 on the education, experience and professional opinion of the medical
18 professional. This information shall be considered part of the
19 central repository pursuant to the Anti-Drug Diversion Act and shall
20 be confidential and not open to the public pursuant to the
21 provisions of Section 2-309D of this title.

22 SECTION 10. AMENDATORY 63 O.S. 2011, Section 2-106, as
23 amended by Section 1, Chapter 340, O.S.L. 2013 (63 O.S. Supp. 2017,
24 Section 2-106), is amended to read as follows:

1 Section 2-106. A. The Director of the Oklahoma State Bureau of
2 ~~Narcotics and Dangerous Drugs Control~~ Investigation shall, in
3 addition to other powers and duties vested in the Director:

4 1. Cooperate with federal and other state agencies in
5 discharging the responsibilities concerning traffic in narcotics and
6 dangerous substances and in suppressing the abuse of dangerous
7 substances;

8 2. Arrange for the exchange of information between governmental
9 officials concerning the use and abuse of dangerous substances;

10 3. Coordinate and cooperate in training programs on dangerous
11 substances law enforcement at the local and state levels;

12 4. Cooperate with the Oklahoma State Bureau of ~~Narcotics and~~
13 ~~Dangerous Drugs Control~~ Investigation by establishing a centralized
14 unit which will accept, catalog, file and collect statistics,
15 including records of drug-dependent persons and other dangerous
16 substance law offenders within the state, and make such information
17 available for federal, state and local law enforcement purposes; and
18 may collect and furnish statistics for other appropriate purposes;
19 and

20 5. Coordinate and cooperate in programs of eradication aimed at
21 destroying wild or illicit growth of plant species from which
22 controlled dangerous substances may be extracted.

23 B. Results, information and evidence received from the Oklahoma
24 State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation

1 relating to the regulatory functions of this act, including results
2 of inspections conducted by that agency, may be relied upon and
3 acted upon by the Director in conformance with the regulatory
4 functions under this act.

5 C. The Director is further authorized and directed to:

6 1. Coordinate and cooperate in educational programs designed to
7 prevent and deter misuse and abuse of controlled dangerous
8 substances;

9 2. Promote better recognition of the problems of misuse and
10 abuse of controlled dangerous substances within the regulated
11 industry and among interested groups and organizations;

12 3. Assist the regulated industry, interested groups and
13 organizations in contributing to the reduction of misuse and abuse
14 of controlled dangerous substances;

15 4. Consult with interested groups and organizations to aid them
16 in solving administrative and organizational problems;

17 5. Assist in evaluating procedures, projects, techniques and
18 controls conducted or proposed as part of educational programs on
19 misuse and abuse of controlled dangerous substances;

20 6. Disseminate the results of research on misuse and abuse of
21 controlled dangerous substances to promote a better public
22 understanding of what problems exist and what can be done to combat
23 them;

24

1 7. Assist in the education and training of state and local law
2 enforcement officials in their efforts to control misuse and abuse
3 of controlled dangerous substances;

4 8. Conduct an annual seminar to be attended by selected law
5 enforcement officers in order to teach new techniques and advances
6 in the investigation of violations of the Uniform Controlled
7 Dangerous Substances Act; and

8 9. Supervise and direct agents appointed in the performance of
9 their function of enforcement of the provisions of this act.

10 D. The Director is further authorized and directed to:

11 1. Encourage research on misuse and abuse of controlled
12 dangerous substances;

13 2. Cooperate in establishing methods to assess accurately the
14 effects of controlled dangerous substances and to identify and
15 characterize controlled dangerous substances with potential for
16 abuse; and

17 3. Cooperate in making studies and in undertaking programs of
18 research to:

19 a. develop new or improved approaches, techniques,
20 systems, equipment and devices to strengthen the
21 enforcement of this act,

22 b. determine patterns of misuse and abuse of controlled
23 dangerous substances and the social effects thereof,
24 and

1 c. improve methods for preventing, predicting,
2 understanding and dealing with the misuse and abuse of
3 controlled dangerous substances.

4 E. The Director shall prepare a yearly report on all deaths and
5 nonfatal overdoses which were the result or probable result of abuse
6 of a controlled dangerous substance. The yearly report shall be
7 limited to statistical information including, but not limited to,
8 the county where the death or nonfatal overdose occurred, age, race,
9 gender, type of controlled dangerous substances involved in the
10 death or nonfatal overdose, and the method in which the controlled
11 dangerous substance was obtained by the person, when available.

12 F. The Director may enter into contracts with public agencies,
13 institutions of higher education and private organizations or
14 individuals for the purpose of conducting research, demonstrations
15 or special projects which bear directly on misuse and abuse of
16 controlled dangerous substances.

17 G. The Director may enter into contracts for educational and
18 research activities without performance bonds.

19 H. The Director may authorize persons engaged in research or
20 scientific activities on the use and effects of dangerous substances
21 to withhold the names and other identifying characteristics of
22 persons who are the subjects of such research. Persons who obtain
23 this authorization may not be compelled in any state civil,
24 criminal, administrative, legislative or other proceeding to

1 identify the subjects of research for which such authorization was
2 obtained.

3 I. The Director may authorize the lawful possession,
4 distribution and use of controlled dangerous substances by persons
5 engaged in research or scientific activities; authorization for
6 possession of controlled dangerous substances may be extended to
7 persons engaged in a program of drug education or persons in the
8 performance of an official duty. Persons who obtain this
9 authorization shall be exempt from state prosecution for possession,
10 distribution or use of dangerous substances to the extent authorized
11 by the Director.

12 J. The Director is authorized to accept gifts, bequests,
13 devises, contributions and grants, public or private, including
14 federal funds or funds from any other source for use in furthering
15 the purpose of the office of the Director.

16 K. The Director is authorized to purchase or sell real
17 property, together with appurtenances, in the name of the Oklahoma
18 State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation
19 upon approval of the Oklahoma State Bureau of ~~Narcotics and~~
20 ~~Dangerous Drugs Control~~ Investigation Commission.

21 L. The Director is authorized to purchase and maintain motor
22 vehicles and other equipment for use by the employees of the Bureau.

23 M. The Director shall be in charge of all monies appropriated
24 for or deposited to the credit of the office of the Director and is

1 authorized to approve claims and payrolls as provided in Section
2 ~~41.26~~ 34.68 of Title 62 of the Oklahoma Statutes.

3 N. The Director shall have the authority of a peace officer and
4 is authorized to commission assistants of the office as peace
5 officers.

6 O. Upon determining that a practitioner is prescribing a
7 controlled dangerous substance to a person engaged in fraudulent or
8 deceptive efforts to fill or refill multiple prescriptions for
9 controlled dangerous substances, the Director shall provide written
10 or electronic notification alerting the practitioner to the
11 possibility that the person may be unlawfully obtaining prescription
12 drugs in violation of the Uniform Controlled Dangerous Substances
13 Act.

14 SECTION 11. AMENDATORY 63 O.S. 2011, Section 2-106.1, as
15 amended by Section 496, Chapter 304, O.S.L. 2012 (63 O.S. Supp.
16 2017, Section 2-106.1), is amended to read as follows:

17 Section 2-106.1 The Oklahoma State Bureau of ~~Narcotics and~~
18 ~~Dangerous Drugs Control~~ Investigation is hereby authorized to lease
19 the seaplane owned by ~~said~~ the Bureau. ~~Said~~ The lease shall not be
20 subject to the provisions of Section 85.5 of Title 74 of the
21 Oklahoma Statutes and shall not have to be approved by the Office of
22 Management and Enterprise Services.

23 SECTION 12. AMENDATORY 63 O.S. 2011, Section 2-106.2, is
24 amended to read as follows:

1 Section 2-106.2 A. The Oklahoma State Bureau of ~~Narcotics and~~
2 ~~Dangerous Drugs Control~~ Investigation, pursuant to rules promulgated
3 by the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs~~
4 ~~Control~~ Investigation Commission, is hereby authorized to:

5 1. Make available for sale used vehicles, used equipment and
6 forfeited property to any federal, state, county, or municipal
7 agency, trust authority or public school district;

8 2. Sell at public auction any used vehicles, used equipment and
9 any property forfeited to the Bureau; and

10 3. Donate or transfer title to any surplus property as defined
11 in Section 62.2 of Title 74 of the Oklahoma Statutes, or property
12 forfeited to the Bureau, to any law enforcement agency of any
13 political subdivision of the State of Oklahoma. The use of such
14 donated equipment shall be limited to valid and authorized law
15 enforcement efforts by the receiving agency.

16 B. Any property subject to this section shall be exempted from
17 the provisions set forth in Section 62.3 of Title 74 of the Oklahoma
18 Statutes.

19 SECTION 13. AMENDATORY 63 O.S. 2011, Section 2-107, as
20 amended by Section 497, Chapter 304, O.S.L. 2012 (63 O.S. Supp.
21 2017, Section 2-107), is amended to read as follows:

22 Section 2-107. There is hereby created in the State Treasury a
23 revolving fund for the Oklahoma State Bureau of ~~Narcotics and~~
24 ~~Dangerous Drugs Control~~ Investigation to be designated the "Bureau

1 ~~of~~ Narcotics Revolving Fund". The fund shall be a continuing fund,
2 not subject to fiscal year limitations, and shall consist of any
3 monies received from the sale of surplus and confiscated property,
4 fees and receipts collected pursuant to the Oklahoma Open Records
5 Act, gifts, bequests, devises, contributions or grants, public or
6 private, including federal funds unless otherwise provided by
7 federal law or regulation, registration fees and receipts relating
8 to prescription pads and receipts from any other source. All monies
9 accruing to the credit of said fund are hereby appropriated and may
10 be budgeted and expended by the Oklahoma State Bureau of ~~Narcotics~~
11 ~~and Dangerous Drugs Control~~ Investigation for general operations of
12 the agency. Expenditures from said fund shall be made upon warrants
13 issued by the State Treasurer against claims filed as prescribed by
14 law with the Director of the Office of Management and Enterprise
15 Services for approval and payment.

16 SECTION 14. AMENDATORY 63 O.S. 2011, Section 2-107a, is
17 amended to read as follows:

18 Section 2-107a. There is hereby created in the State Treasury a
19 revolving fund for the Oklahoma State Bureau of ~~Narcotics and~~
20 ~~Dangerous Drugs Control~~ Investigation to be designated the "~~Bureau~~
21 ~~of Narcotics~~ Drug Education Revolving Fund". The fund shall be a
22 continuing fund, not subject to fiscal year limitations, and shall
23 consist of any monies received pursuant to subsection F of Section
24 1313.2 of Title 20 of the Oklahoma Statutes. All monies accruing to

1 the credit of the fund are hereby appropriated and may be budgeted
2 and expended by the Oklahoma State Bureau of ~~Narcotics and Dangerous~~
3 ~~Drugs Control~~ Investigation for purposes relating to drug education
4 and information in the State of Oklahoma.

5 SECTION 15. AMENDATORY 63 O.S. 2011, Section 2-107b, as
6 amended by Section 498, Chapter 304, O.S.L. 2012 (63 O.S. Supp.
7 2017, Section 2-107b), is amended to read as follows:

8 Section 2-107b. There is hereby created in the State Treasury a
9 revolving fund for the Oklahoma State Bureau of ~~Narcotics and~~
10 ~~Dangerous Drugs Control~~ Investigation to be designated the "Drug
11 Money Laundering and Wire Transmitter Revolving Fund". The fund
12 shall be a continuing fund, not subject to fiscal year limitations,
13 and shall consist of all monies received by the Oklahoma State
14 Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation from
15 the fees imposed pursuant to Section 2-503.1j of this title. All
16 monies accruing to the credit of the fund are hereby appropriated
17 and may be budgeted and expended by the Oklahoma State Bureau of
18 ~~Narcotics and Dangerous Drugs Control~~ Investigation for the purpose
19 of drug enforcement. Expenditures from said fund shall be made upon
20 warrants issued by the State Treasurer against claims filed as
21 prescribed by law with the Director of the Office of Management and
22 Enterprise Services for approval and payment.

23 SECTION 16. AMENDATORY 63 O.S. 2011, Section 2-109, is
24 amended to read as follows:

1 Section 2-109. The Oklahoma State Bureau of Narcotics and
2 ~~Dangerous Drugs Control Investigation~~ is hereby authorized to rent
3 ~~and/or~~ or charter aircraft on a project mission basis; such rental
4 or charter to last only for the duration of the project mission.
5 The Bureau is also authorized to pay, from any funds available to
6 the Bureau, expenses involved in qualifying multiengine and
7 instrument pilots as may be required to accomplish agency
8 responsibilities.

9 SECTION 17. AMENDATORY 63 O.S. 2011, Section 2-109a, is
10 amended to read as follows:

11 Section 2-109a. The Oklahoma State Bureau of ~~Narcotics and~~
12 ~~Dangerous Drugs Control Investigation~~ shall conduct background
13 investigations and national criminal history record checks on
14 companies and individuals with which the Bureau contracts to provide
15 janitorial services and shall not be subject to the provisions of
16 Section 3007 of Title 74 of the Oklahoma Statutes.

17 SECTION 18. AMENDATORY 63 O.S. 2011, Section 2-110, as
18 amended by Section 46, Chapter 259, O.S.L. 2012 (63 O.S. Supp. 2017,
19 Section 2-110), is amended to read as follows:

20 Section 2-110. The Director of the Oklahoma State Bureau of
21 ~~Narcotics and Dangerous Drugs Control Investigation~~ may employ
22 attorneys, who shall be unclassified employees of the state, or
23 contract with attorneys, as needed. These attorneys may advise the
24 Director, the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs~~

1 ~~Control~~ Investigation Commission and Bureau personnel on all legal
2 matters and shall appear for and represent the Director, the
3 Commission and Bureau personnel in all administrative hearings and
4 all litigation or other proceedings which may arise in the discharge
5 of their duties. At the request of the Oklahoma State Bureau of
6 ~~Narcotics and Dangerous Drugs Control~~ Investigation Commission, such
7 attorney shall assist the district attorney in prosecuting charges
8 of violators of the Uniform Controlled Dangerous Substances Act or
9 any felony relating to or arising from a violation of the Uniform
10 Controlled Dangerous Substances Act. Attorneys for the Bureau who
11 have been certified by the Council on Law Enforcement Education and
12 Training to carry a weapon or have been issued a handgun license
13 pursuant to the provisions of the Oklahoma Self-Defense Act shall be
14 allowed to carry weapons pursuant to paragraph 3 of subsection A of
15 Section 1272 of Title 21 of the Oklahoma Statutes. These attorneys,
16 pursuant to this provision, shall not be considered eligible to
17 participate in the Oklahoma Law Enforcement Retirement System. If a
18 conflict of interest would be created by such attorney representing
19 the Director, the Commission or Bureau personnel, additional counsel
20 may be hired upon approval of the Oklahoma State Bureau of ~~Narcotics~~
21 ~~and Dangerous Drugs Control~~ Investigation Commission.

22 SECTION 19. AMENDATORY 63 O.S. 2011, Section 2-111, is
23 amended to read as follows:
24

1 Section 2-111. A. The Oklahoma State Bureau of ~~Narcotics and~~
2 ~~Dangerous Drugs Control~~ Investigation is authorized to establish an
3 employee performance recognition program that encourages outstanding
4 job performance and productivity within the Bureau. The Bureau is
5 authorized to expend funds for:

6 1. The purchase of recognition awards to be presented to
7 members of work units or individual employees having exceptional job
8 performance records or other significant contributions to the
9 operation of the Bureau;

10 2. The purchase of recognition awards to be presented to
11 nonemployees of the Bureau in recognition of exemplary service or
12 assistance to the Bureau and law enforcement; and

13 3. A formal ceremony or banquet where the awards may be
14 presented.

15 B. Recognition awards may consist of distinctive wearing
16 apparel, service pins, plaques, writing pens, or other distinguished
17 awards of a value not exceeding One Hundred Fifty Dollars (\$150.00)
18 per award to recognize the achievement of the work unit or
19 individual employee. In addition to recognition awards, the Bureau
20 may establish an employee benefit program not exceeding Five
21 Thousand Dollars (\$5,000.00) each fiscal year for cash awards to
22 recognize outstanding performance in the workplace by Bureau
23 employees.

1 C. To better educate and foster relations as to the Bureau and
2 its mission towards drug reduction, the Bureau may expend funds not
3 exceeding Ten Thousand Dollars (\$10,000.00) each fiscal year for the
4 purpose of distributing educational, demand-reduction and
5 commemorative materials bearing the seal of the Oklahoma State
6 Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation to
7 nonemployees. Donated items, federal grant money and seizure funds
8 shall not count toward this amount.

9 SECTION 20. AMENDATORY 63 O.S. 2011, Section 2-212, as
10 last amended by Section 4, Chapter 181, O.S.L. 2013 (63 O.S. Supp.
11 2017, Section 2-212), is amended to read as follows:

12 Section 2-212. A. The controlled substances listed in this
13 section are included in Schedule V.

14 1. Any compound, mixture, or preparation containing limited
15 quantities of any of the following narcotic drugs, which also
16 contains one or more nonnarcotic active medicinal ingredients in
17 sufficient proportion to confer upon the compound, mixture, or
18 preparation, valuable medicinal qualities other than those possessed
19 by the narcotic drug alone:

- 20 a. not more than two hundred (200) milligrams of codeine,
21 or any of its salts, per one hundred (100) milliliters
22 or per one hundred (100) grams,
23
24

- 1 b. not more than one hundred (100) milligrams of
2 dihydrocodeine, or any of its salts, per one hundred
3 (100) milliliters or per one hundred (100) grams,
4 c. not more than one hundred (100) milligrams of
5 ethylmorphine, or any of its salts, per one hundred
6 (100) milliliters or per one hundred (100) grams,
7 d. not more than two and five-tenths (2.5) milligrams of
8 diphenoxylate and not less than twenty-five (25)
9 micrograms of atropine sulfate per dosage unit, or
10 e. not more than one hundred (100) milligrams of opium
11 per one hundred (100) milliliters or per one hundred
12 (100) grams.

13 2. Any compound, mixture, or preparation containing any
14 detectable quantity of base pseudoephedrine or ephedrine, its salts
15 or optical isomers, or salts of optical isomers. If any compound,
16 mixture, or preparation as specified in this paragraph is dispensed,
17 sold, or distributed in a pharmacy:

- 18 a. it shall be dispensed, sold, or distributed only by,
19 or under the supervision of, a licensed pharmacist or
20 a registered pharmacy technician,
21 b. a service charge not to exceed the purchase price of
22 the product, mixture or preparation may be assessed
23 and collected by the licensed pharmacist or registered
24 pharmacy technician at the point of sale from the

1 person seeking to purchase, receive or otherwise
2 acquire a pseudoephedrine product or products. Upon
3 receipt of payment of the service charge, the licensed
4 pharmacist or registered pharmacy technician shall
5 access the methamphetamine offender registry and
6 verify whether the person is an individual who is
7 listed on the methamphetamine offender registry. Upon
8 verification that the person is an individual who is
9 not listed on the methamphetamine offender registry,
10 the service charge shall be deducted from the total
11 purchase price of the pseudoephedrine product or
12 products. Upon verification that the person is an
13 individual who is listed on the methamphetamine
14 offender registry, the person shall be prohibited from
15 purchasing the pseudoephedrine product or products and
16 shall be required to forfeit the service charge
17 previously collected by the licensed pharmacist or
18 registered pharmacy technician. Any pharmacy that
19 requires the assessment and collection of a service
20 charge for pseudoephedrine products shall post a clear
21 and conspicuous sign at each public entrance to the
22 place of business and at each register within the
23 pharmacy that provides notice to customers of the
24 pharmacy that a service charge shall be assessed and

1 collected for pseudoephedrine products and, upon
2 verification that the person is listed on the
3 methamphetamine offender registry, the service charge
4 shall be forfeited and retained by the pharmacy, and
5 c. any person who is not an individual listed on the
6 methamphetamine offender registry that is purchasing,
7 receiving, or otherwise acquiring any compound,
8 mixture, or preparation shall produce a driver
9 license, passport, military identification, or other
10 state-issued identification card and shall sign a
11 written or electronic log, receipt, or other program
12 or mechanism approved by the Oklahoma State Bureau of
13 ~~Narcotics and Dangerous Drugs Control~~ Investigation,
14 showing:

- 15 (1) the date and time of the transaction,
- 16 (2) name, address and date of birth of the purchaser,
- 17 (3) driver license number, passport, military
18 identification, or state-issued identification
19 number and state of residence of the purchaser,
- 20 (4) name and initials of the pharmacist or pharmacy
21 technician conducting the transaction,
- 22 (5) the product being sold,
- 23 (6) total quantity, in grams, of base pseudoephedrine
24 or ephedrine purchased, and

1 (7) attestation by the person receiving the compound,
2 mixture or preparation that the person is not
3 subject to the Methamphetamine Offender Registry
4 Act.

5 No person shall purchase, receive, or otherwise acquire more
6 than three and six-tenths (3.6) grams of any product, mixture, or
7 preparation per day or more than seven and two-tenths (7.2) grams of
8 any product, mixture, or preparation within any thirty-day period,
9 or sixty (60) grams of any product, mixture, or preparation within a
10 twelve-month period. Once a person has purchased, received or
11 otherwise acquired the daily limit of three and six-tenths (3.6)
12 grams of any product, mixture or preparation, the person shall be
13 prohibited from purchasing, receiving or otherwise acquiring any
14 additional product, mixture or preparation containing any detectable
15 quantity of base pseudoephedrine or ephedrine for a period of not
16 less than seventy-two (72) hours following the last permitted
17 purchase. The requirements of this paragraph shall not apply to any
18 quantity of such product, mixture or preparation dispensed pursuant
19 to a valid prescription. There shall be no protocol or procedure
20 mandated by any individual or corporate entity that interferes with
21 the professional duty of a pharmacist to counsel and evaluate the
22 appropriate pharmaceutical needs of a patient and the exercise of
23 the professional judgment of a pharmacist as to whether it is
24

1 appropriate to dispense medication as set forth in this paragraph or
2 otherwise.

3 3. Any compound, mixture, or preparation containing any
4 detectable quantity of pregabalin.

5 B. The Director of the Oklahoma State Bureau of ~~Narcotics and~~
6 ~~Dangerous Drugs Control~~ Investigation, by rule, may exempt other
7 products from this Schedule which the Director finds are not used in
8 the illegal manufacture of methamphetamine or other controlled
9 dangerous substances. A manufacturer of a drug product may apply
10 for removal of the product from the Schedule if the product is
11 determined by the Director to have been formulated in such a way as
12 to effectively prevent the conversion of the active ingredient into
13 methamphetamine.

14 SECTION 21. AMENDATORY 63 O.S. 2011, Section 2-302, is
15 amended to read as follows:

16 Section 2-302. A. Every person who manufactures, distributes,
17 dispenses, prescribes, administers or uses for scientific purposes
18 any controlled dangerous substance within this state, or who
19 proposes to engage in the manufacture, distribution, dispensing,
20 prescribing, administering or use for scientific purposes of any
21 controlled dangerous substance within this state shall obtain a
22 registration issued by the Director of the Oklahoma State Bureau of
23 ~~Narcotics and Dangerous Drugs Control~~ Investigation, in accordance
24 with rules promulgated by the Director. Persons registered by the

1 Director under Section 2-101 et seq. of this title to manufacture,
2 distribute, dispense, or conduct research with controlled dangerous
3 substances may possess, manufacture, distribute, dispense, or
4 conduct research with those substances to the extent authorized by
5 their registration and in conformity with the other provisions of
6 this article. Every wholesaler, manufacturer or distributor of any
7 drug product containing pseudoephedrine or phenylpropanolamine, or
8 their salts, isomers, or salts of isomers shall obtain a
9 registration issued by the Director of the Oklahoma State Bureau of
10 ~~Narcotics and Dangerous Drugs Control~~ Investigation in accordance
11 with rules promulgated by the Director and as provided for in
12 Section 2-332 of this title.

13 B. Out-of-state pharmaceutical suppliers who provide controlled
14 dangerous substances to individuals within this state shall obtain a
15 registration issued by the Director of the Oklahoma State Bureau of
16 ~~Narcotics and Dangerous Drugs Control~~ Investigation, in accordance
17 with rules promulgated by the Director; provided that this provision
18 shall not apply to wholesale distributors who ship controlled
19 dangerous substances to pharmacies or other entities registered
20 within this state in accordance with rules promulgated by the
21 Director.

22 C. Manufacturers, distributors, home care agencies, hospices,
23 home care services, and scientific researchers shall obtain a
24 registration annually. Other practitioners shall obtain a

1 registration for a period to be determined by the Director that will
2 be for a period not less than one (1) year nor more than three (3)
3 years.

4 D. Every trainer or handler of a canine controlled dangerous
5 substances detector who, in the ordinary course of such trainer's or
6 handler's profession, desires to possess any controlled dangerous
7 substance, annually, shall obtain a registration issued by the
8 Director for a fee of Seventy Dollars (\$70.00). Such persons shall
9 be subject to all applicable provisions of Section 2-101 et seq. of
10 this title and such applicable rules promulgated by the Director for
11 those individuals identified in subparagraph a of paragraph 32 of
12 Section 2-101 of this title. Persons registered by the Director
13 pursuant to this subsection may possess controlled dangerous
14 substances to the extent authorized by their registration and in
15 conformity with the other provisions of this article.

16 E. The following persons shall not be required to register and
17 may lawfully possess controlled dangerous substances under the
18 provisions of Section 2-101 et seq. of this title:

19 1. An agent, or an employee thereof, of any registered
20 manufacturer, distributor, dispenser or user for scientific purposes
21 of any controlled dangerous substance, if such agent is acting in
22 the usual course of such agent's or employee's business or
23 employment;

24

1 2. Any person lawfully acting under the direction of a person
2 authorized to administer controlled dangerous substances under
3 Section 2-312 of this title;

4 3. A common or contract carrier or warehouse, or an employee
5 thereof, whose possession of any controlled dangerous substance is
6 in the usual course of such carrier's or warehouse's business or
7 employment;

8 4. An ultimate user or a person in possession of any controlled
9 dangerous substance pursuant to a lawful order of a practitioner;

10 5. An individual pharmacist acting in the usual course of such
11 pharmacist's employment with a pharmacy registered pursuant to the
12 provisions of Section 2-101 et seq. of this title;

13 6. A nursing home licensed by this state;

14 7. Any Department of Mental Health and Substance Abuse Services
15 employee or any person whose facility contracts with the Department
16 of Mental Health and Substance Abuse Services whose possession of
17 any dangerous drug, as defined in Section 353.1 of Title 59 of the
18 Oklahoma Statutes, is for the purpose of delivery of a mental health
19 consumer's medicine to the consumer's home or residence; and

20 8. Registered nurses and licensed practical nurses.

21 F. The Director may, by rule, waive the requirement for
22 registration or fee for registration of certain manufacturers,
23 distributors, dispensers, prescribers, administrators, or users for
24

1 scientific purposes if the Director finds it consistent with the
2 public health and safety.

3 G. A separate registration shall be required at each principal
4 place of business or professional practice where the applicant
5 manufactures, distributes, dispenses, prescribes, administers, or
6 uses for scientific purposes controlled dangerous substances.

7 H. The Director is authorized to inspect the establishment of a
8 registrant or applicant for registration in accordance with rules
9 promulgated by the Director.

10 I. No person engaged in a profession or occupation for which a
11 license to engage in such activity is provided by law shall be
12 registered under this act unless such person holds a valid license
13 of such person's profession or occupation.

14 J. Registrations shall be issued on the first day of November
15 of each year. Registrations may be issued at other times, however,
16 upon certification of the professional licensing board.

17 K. The licensing boards of all professions and occupations to
18 which the use of controlled dangerous substances is incidental shall
19 furnish a current list to the Director, not later than the first day
20 of October of each year, of the persons holding valid licenses. All
21 such persons except persons exempt from registration requirements
22 under subsection E of this section shall be subject to the
23 registration requirements of Section 2-101 et seq. of this title.

1 L. The licensing board of any professional defined as a mid-
2 level practitioner shall notify and furnish to the Director, not
3 later than the first day of October of each year that such
4 professional holds a valid license, a current listing of individuals
5 licensed and registered with their respective boards to prescribe,
6 order, select, obtain and administer controlled dangerous
7 substances. The licensing board shall immediately notify the
8 Director of any action subsequently taken against any such
9 individual.

10 M. Beginning November 1, 2010, each registrant that prescribes,
11 administers or dispenses methadone shall be required to check the
12 prescription profile of the patient on the central repository of the
13 Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~
14 Investigation.

15 SECTION 22. AMENDATORY 63 O.S. 2011, Section 2-303, is
16 amended to read as follows:

17 Section 2-303. A. The Director of the Oklahoma State Bureau of
18 ~~Narcotics and Dangerous Drugs Control~~ Investigation shall register
19 an applicant to manufacture, distribute, dispense, prescribe,
20 administer or use for scientific purposes controlled dangerous
21 substances included in Schedules I through V of Section 2-101 et
22 seq. of this title unless the Director determines that the issuance
23 of such registration is inconsistent with the public interest. In
24

1 determining the public interest, the following factors shall be
2 considered:

3 1. Maintenance of effective controls against diversion of
4 particular controlled dangerous substances and any Schedule I or II
5 substance compounded therefrom into other than legitimate medical,
6 scientific or industrial channels, including examination of the
7 fitness of his or her employees or agents to handle dangerous
8 substances;

9 2. Compliance with applicable state and local law;

10 3. Has been found guilty of, entered a plea of guilty or nolo
11 contendere to a charge under the Uniform Controlled Dangerous
12 Substances Act or any other state or federal law relating to any
13 substance defined herein as a controlled dangerous substance or any
14 felony under the laws of any state or the United States;

15 4. Furnishing by the applicant false or fraudulent material
16 information in any application filed under Section 2-101 et seq. of
17 this title;

18 5. Past experience in the manufacture, distribution,
19 dispensing, prescribing, administering or use for scientific
20 purposes of controlled dangerous substances, and the existence in
21 the establishment of effective controls against diversion;

22 6. Denial, suspension or revocation of the applicant's federal
23 registration to manufacture, distribute or dispense controlled
24 dangerous substances as authorized by federal law; and

1 7. Such other factors as may be relevant to and consistent with
2 the public health and safety.

3 Nothing herein shall be deemed to require individual licensed
4 pharmacists to register under the provisions of the Uniform
5 Controlled Dangerous Substances Act.

6 B. Registration granted under subsection A of this section
7 shall not entitle a registrant to manufacture, distribute, dispense,
8 prescribe, administer or use for scientific purposes controlled
9 dangerous substances in Schedule I or II other than those specified
10 in the registration.

11 C. Practitioners shall be registered to dispense, prescribe,
12 administer or use for scientific purposes substances in Schedules II
13 through V if they are authorized to carry on their respective
14 activities under the laws of this state. A registration application
15 by a practitioner who wishes to conduct research with Schedule I
16 substances shall be accompanied by evidence of the applicant's
17 federal registration to conduct such activity and shall be referred
18 to the Medical Research Commission for advice. The Medical Research
19 Commission shall promptly advise the Director concerning the
20 qualifications of each practitioner requesting such registration.
21 Registration for the purpose of bona fide research or of use for
22 scientific purposes with Schedule I substances by a practitioner
23 deemed qualified by the Medical Research Commission may be denied
24 only on a ground specified in subsection A of Section 2-304 of this

1 title or if there are reasonable grounds to believe that the
 2 applicant will abuse or unlawfully transfer such substances or fail
 3 to safeguard adequately such applicant's supply of such substances
 4 against diversion from legitimate medical or scientific use.

5 D. 1. The Director shall initially permit persons to register
 6 who own or operate any establishment engaged in the manufacture,
 7 distribution, dispensing, prescribing, administering or use for
 8 scientific purposes of any controlled dangerous substances prior to
 9 June 4, 1991, and who are registered or licensed by the state. Fees
 10 for registration under this section shall be as follows:

11	Practitioners and mid-level		
12	practitioners	\$140.00	per year
13			of registration
14	Home Care Agencies, Hospices &		
15	Home Care Services	\$140.00	annually
16	Distributors	\$300.00	annually
17	Manufacturers	\$500.00	annually
18	Manufacturer, Wholesaler, or		
19	Distributor of drug products		
20	containing pseudoephedrine		
21	or phenylpropanolamine	\$300.00	annually

22 2. A registrant shall be required to pay double the amount of
 23 the above-listed fee for any renewal of registration received more
 24 than thirty (30) days late.

1 3. A ~~Ten Dollar (\$10.00)~~ fee of Ten Dollars (\$10.00) shall be
2 charged for a duplicate registration certificate.

3 E. Compliance by manufacturers and distributors with the
4 provisions of the Federal Controlled Substances Act, 21 U.S.C.,
5 Section 801 et seq., respecting registration, excluding fees, shall
6 be deemed sufficient to qualify for registration under this act.

7 SECTION 23. AMENDATORY 63 O.S. 2011, Section 2-304, as
8 amended by Section 1, Chapter 1, O.S.L. 2015 (63 O.S. Supp. 2017,
9 Section 2-304), is amended to read as follows:

10 Section 2-304. A. A registration, pursuant to Section 2-303 of
11 this title, to manufacture, distribute, dispense, prescribe,
12 administer or use for scientific purposes a controlled dangerous
13 substance shall be limited, conditioned, denied, suspended or
14 revoked by the Director upon a finding that the registrant:

15 1. Has materially falsified any application filed pursuant to
16 the Uniform Controlled Dangerous Substances Act or required by the
17 Uniform Controlled Dangerous Substances Act;

18 2. Has been found guilty of, entered a plea of guilty, or
19 entered a plea of nolo contendere to a misdemeanor relating to any
20 substance defined herein as a controlled dangerous substance or any
21 felony under the laws of any state or the United States;

22 3. Has had his or her federal registration retired, suspended,
23 or revoked by a competent federal authority and is no longer
24 authorized by federal law to manufacture, distribute, dispense,

1 prescribe, administer or use for scientific purposes controlled
2 dangerous substances;

3 4. Has failed to maintain effective controls against the
4 diversion of controlled dangerous substances to unauthorized persons
5 or entities;

6 5. Has prescribed, dispensed or administered a controlled
7 dangerous substance from schedules other than those specified in his
8 or her state or federal registration;

9 6. Has had a restriction, suspension, revocation, limitation,
10 condition, or probation placed on his or her professional license or
11 certificate or practice as a result of a proceeding pursuant to the
12 general statutes;

13 7. Is abusing or, within the past five (5) years, has abused or
14 excessively used drugs or controlled dangerous substances;

15 8. Has prescribed, sold, administered, or ordered any
16 controlled substance for an immediate family member, himself or
17 herself; provided that this shall not apply to a medical emergency
18 when no other doctor is available to respond to the emergency;

19 9. Has possessed, used, prescribed, dispensed or administered
20 drugs or controlled dangerous substances for other than legitimate
21 medical or scientific purposes or for purposes outside the normal
22 course of his or her professional practice;

23 10. Has been under the influence of alcohol or another
24 intoxicating substance which adversely affected the central nervous

1 system, vision, hearing or other sensory or motor functioning to
2 such degree the person was impaired during the performance of his or
3 her job; or

4 11. Has violated any federal law relating to any controlled
5 substances, any provision of the Uniform Controlled Dangerous
6 Substances Act, or any rules of the Oklahoma State Bureau of
7 ~~Narcotics and Dangerous Drugs Control~~ Investigation.

8 B. In the event the Director suspends or revokes a registration
9 granted under Section 2-303 of this title, all controlled dangerous
10 substances owned or possessed by the registrant pursuant to such
11 registration at the time of denial or suspension or the effective
12 date of the revocation order, as the case may be, may in the
13 discretion of the Director be impounded and preserved. No
14 disposition may be made of substances impounded and preserved until
15 the time for taking an appeal has elapsed or until all appeals have
16 been concluded unless a court, upon application therefor, orders the
17 sale of perishable substances and the deposit of the proceeds of the
18 sale with the court. Upon a revocation order becoming final, all
19 such controlled dangerous substances shall be forfeited to the
20 state.

21 C. The Drug Enforcement Administration shall promptly be
22 notified of all orders suspending or revoking registration and all
23 forfeitures of controlled dangerous substances.

24

1 D. In lieu of or in addition to any other remedies available to
2 the Director, if a finding is made that a registrant has committed
3 any act in violation of federal law relating to any controlled
4 substance, any provision of the Uniform Controlled Dangerous
5 Substances Act, or any rules of the Oklahoma State Bureau of
6 ~~Narcotics and Dangerous Drugs Control~~ Investigation, the Director is
7 hereby authorized to assess an administrative penalty not to exceed
8 Two Thousand Dollars (\$2,000.00) for each such act. The provisions
9 of this subsection shall not apply to violations of subsection G of
10 Section 2-309D of this title. Nothing in this section shall be
11 construed so as to permit the Director of the Oklahoma State Bureau
12 of ~~Narcotics and Dangerous Drugs Control~~ Investigation to assess
13 administrative fines for violations of the provisions of subsection
14 G of Section 2-309D of this title.

15 SECTION 24. AMENDATORY 63 O.S. 2011, Section 2-309, as
16 last amended by Section 1, Chapter 323, O.S.L. 2013 (63 O.S. Supp.
17 2017, Section 2-309), is amended to read as follows:

18 Section 2-309. A. 1. Except for dosages medically required
19 for a period not to exceed forty-eight (48) hours which are
20 administered by or on direction of a practitioner, other than a
21 pharmacist, or medication dispensed directly by a practitioner,
22 other than a pharmacist, to an ultimate user, no controlled
23 dangerous substance included in Schedule II, which is a prescription
24 drug as determined under regulation promulgated by the Board of

1 Pharmacy, may be dispensed without the written prescription of a
2 practitioner; provided, that in emergency situations, as prescribed
3 by the Board of Pharmacy by regulation, such drug may be dispensed
4 upon oral prescription reduced promptly to writing and filed by the
5 pharmacist in a manner to be prescribed by rules and regulations of
6 the Director of the Oklahoma State Bureau of ~~Narcotics and Dangerous~~
7 ~~Drugs Control~~ Investigation.

8 2. Electronic prescribing may be utilized for Schedules II,
9 III, IV, and V, subject to the requirements set forth in 21 CFR,
10 Section 1311 et seq.

11 3. The transmission of written prescription by practitioner to
12 dispensing pharmacy by facsimile or electronic transmission with
13 electronic signature is permitted only under the following
14 conditions:

15 a. for Schedule II drugs, the original prescription must
16 be presented and verified against the facsimile at the
17 time the substances are actually dispensed, and the
18 original document must be properly annotated and
19 retained for filing, except:

20 (1) home infusion pharmacy may consider the facsimile
21 to be a "written prescription" as required by
22 Section 2-101 et seq. of this title and as
23 required by Title 21 U.S.C., Section 829(a). The
24 facsimile copy of the prescription shall be

1 retained as an original prescription, and it must
2 contain all the information required by Section
3 2-101 et seq. of this title and 21 CFR, Section
4 1306.05(a), including date issued, the patient's
5 full name and address, and the practitioner's
6 name, address, DEA registration number, and
7 signature. The exception to the regulations for
8 home infusion/IV therapy is intended to
9 facilitate the means by which home infusion
10 pharmacies obtain prescriptions for patients
11 requiring the frequently modified parenteral
12 controlled release administration of narcotic
13 substances, but does not extend to the dispensing
14 of oral dosage units of controlled substances,
15 (2) the same exception is granted to patients in Long
16 Term Care facilities (LTCF), which are filled by
17 and delivered to the facility by a dispensing
18 pharmacy, and
19 (3) an electronic prescription with electronic
20 signature may serve as an original prescription,
21 subject to the requirements set forth in 21 CFR,
22 Section 1311 et seq., and

- 23 b. for drugs in Schedules III and IV, a facsimile copy of
24 a written, signed prescription transmitted directly by

1 the prescribing practitioner to the pharmacy can serve
2 as an original prescription. Electronic prescribing
3 may be utilized for Schedules III and IV subject to
4 the same requirements as set forth in 21 CFR, Section
5 1311 et seq.

6 4. Prescriptions shall be retained in conformity with the
7 requirements of this section and Section 2-307 of this title. No
8 prescription for a Schedule II substance may be refilled.

9 B. 1. Except for dosages medically required for a period not
10 to exceed forty-eight (48) hours which are administered by or on
11 direction of a practitioner, other than a pharmacist, or medication
12 dispensed directly by a practitioner, other than a pharmacist, to an
13 ultimate user, no controlled dangerous substance included in
14 Schedule III or IV, which is a prescription drug as determined under
15 regulation promulgated by the Board of Pharmacy, may be dispensed
16 without a written or oral prescription.

17 2. A written or oral prescription for a controlled dangerous
18 substance in Schedule III or IV may not be filled or refilled more
19 than six (6) months after the date thereof or be refilled more than
20 five times after the date of the prescription, unless renewed by the
21 practitioner.

22 3. A written or oral prescription for any product containing
23 hydrocodone with another active ingredient shall not be refilled.
24

1 C. No controlled dangerous substance included in Schedule V may
2 be distributed or dispensed other than for a legitimate medical or
3 scientific purpose.

4 D. Except for dosages medically required for a period not to
5 exceed forty-eight (48) hours which are administered by or on
6 direction of a practitioner, other than a pharmacist, or medication
7 dispensed directly by a practitioner, other than a pharmacist, to an
8 ultimate user, tincture opium camphorated, commonly known as
9 paregoric, may not be dispensed without a written or oral
10 prescription. The refilling of a prescription for paregoric shall
11 be unlawful unless permission is granted by the prescriber, either
12 written or oral.

13 E. Whenever it appears to the Director that a drug not
14 considered to be a prescription drug under existing state law or
15 regulation of the Board of Pharmacy should be so considered because
16 of its abuse potential, the Director shall so advise the Board of
17 Pharmacy and furnish to the Board all available data relevant
18 thereto.

19 F. "Prescription", as used herein, means a written or oral
20 order by a practitioner to a pharmacist for a controlled dangerous
21 substance for a particular patient, which specifies the date of its
22 issue, and the full name and address of the patient; if the
23 controlled dangerous substance is prescribed for an animal, the
24 species of the animal; the name and quantity of the controlled

1 dangerous substance prescribed; the directions for use; the name and
2 address of the owner of the animal and, if written, the signature of
3 the practitioner.

4 G. No person shall solicit, dispense, receive or deliver any
5 controlled dangerous substance through the mail, unless the ultimate
6 user is personally known to the practitioner and circumstances
7 clearly indicate such method of delivery is in the best interest of
8 the health and welfare of the ultimate user.

9 SECTION 25. AMENDATORY 63 O.S. 2011, Section 2-309B, is
10 amended to read as follows:

11 Section 2-309B. For the purposes of the Anti-Drug Diversion
12 Act:

13 1. "Bureau" means the Oklahoma State Bureau of ~~Narcotics and~~
14 ~~Dangerous Drugs Control~~ Investigation;

15 2. "Dispenser" means a person who distributes a Schedule II
16 controlled dangerous substance, but does not include a licensed
17 hospital pharmacy or a licensed nurse or medication aide who
18 administers such a substance at the direction of a licensed
19 physician;

20 3. "Dispenser's registration number" means the dispenser's
21 Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~
22 Investigation registration number or, in the case of a pharmacist,
23 the National Association of Boards of Pharmacy number for the
24 pharmacy where the dispensation is made;

1 4. "Exception report" means an output of data indicating
2 Schedule II controlled dangerous substance dispensation which is
3 outside expected norms for a prescriber practicing a particular
4 specialty or field of health care, for a dispenser doing business in
5 a particular location, or for a recipient;

6 5. "Recipient" means the person for whom a prescription is
7 prescribed and who is the lawful intended ultimate user;

8 6. "Recipient's agent" means a person who is authorized by the
9 ultimate user to pick up the recipient's medication and deliver it
10 to the recipient or a person who claims a prescription other than
11 the person to whom the medication is prescribed;

12 7. "Recipient's identification number" and "recipient's agent's
13 identification number" means the unique number contained on a valid
14 passport, military identification card, driver license, or
15 identification card issued to a recipient pursuant to Section 6-105
16 of Title 47 of the Oklahoma Statutes or similar statute of another
17 state if the recipient is not a resident of the State of Oklahoma,
18 or, if the recipient is less than eighteen (18) years old and has no
19 such identification, the unique number contained on a valid
20 passport, military identification card, driver license, or
21 identification card issued to the recipient's parent or guardian
22 pursuant to Section 6-105 of Title 47 of the Oklahoma Statutes or
23 similar statute of another state if the parent or guardian is not a
24 resident of the State of Oklahoma, or, if the controlled dangerous

1 substance is obtained for an animal, the unique number contained on
2 the animal owner's valid driver license or identification card
3 issued pursuant to Section 6-105 of Title 47 of the Oklahoma
4 Statutes or similar statute of another state if the owner is not a
5 resident of the State of Oklahoma. Nonresident drug outlets
6 registered pursuant to the Oklahoma Pharmacy Act and resident drug
7 outlets defined in Section 353.1 of Title 59 of the Oklahoma
8 Statutes are exempt from the picture identification requirement if
9 the nonresident and resident drug outlets have obtained the
10 identification of the patient through the prescription benefit plan
11 of the patient;

12 8. "Registrant" means a person, persons, corporation or other
13 entity who has been issued by the Director of the Oklahoma State
14 Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation a
15 registration pursuant to Section 2-302 of this title; and

16 9. "State" means any state, territory, or possession of the
17 United States, the District of Columbia, or foreign nation.

18 SECTION 26. AMENDATORY 63 O.S. 2011, Section 2-309C, as
19 last amended by Section 73, Chapter 15, O.S.L. 2013 (63 O.S. Supp.
20 2017, Section 2-309C), is amended to read as follows:

21 Section 2-309C. A. A dispenser of a Schedule II, III, IV or V
22 controlled dangerous substance dispensed pursuant to a valid
23 prescription shall transmit to a central repository designated by
24 the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~

1 Investigation using the American Society for Automation in
2 Pharmacy's (ASAP) Telecommunications Format for Controlled
3 Substances version designated in rules by the Oklahoma State Bureau
4 of ~~Narcotics and Dangerous Drugs Control~~ Investigation, the
5 following information for each dispensation:

- 6 1. Recipient's and recipient's agent's name;
- 7 2. Recipient's and recipient's agent's address;
- 8 3. Recipient's and recipient's agent's date of birth;
- 9 4. Recipient's and recipient's agent's identification number;
- 10 5. National Drug Code number of the substance dispensed;
- 11 6. Date of the dispensation;
- 12 7. Quantity of the substance dispensed;
- 13 8. Prescriber's United States Drug Enforcement Agency
14 registration number;
- 15 9. Dispenser's registration number; and
- 16 10. Other information as required by administrative rule.

17 B. The information required by this section shall be
18 transmitted:

- 19 1. In a format or other media designated acceptable by the
20 Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~
21 Investigation; and
- 22 2. Within twenty-four (24) hours of the time that the substance
23 is dispensed. Beginning January 1, 2012, all information shall be
24 submitted on a real-time log.

1 C. When a prescription is written or dispensed to a resident of
2 a nursing home or a person who is under the care of a hospice
3 program licensed pursuant to the provisions of the Oklahoma Hospice
4 Licensing Act who does not have an identification card issued by the
5 state or another form of a recipient identification number pursuant
6 to Section 2-309B of this title, a Social Security number may be
7 used for the purpose of complying with the reporting requirements
8 provided for in this section.

9 D. Willful failure to transmit accurate information as required
10 by this section shall be a misdemeanor punishable, upon conviction,
11 by not more than one (1) year in the county jail, or by a fine of
12 not more than One Thousand Dollars (\$1,000.00), or by both such
13 imprisonment and fine, or administrative action may be taken
14 pursuant to Section 2-304 of this title.

15 E. The Director of the Bureau shall have the authority to allow
16 paper submissions on a form designated by the Oklahoma State Bureau
17 of ~~Narcotics and Dangerous Drugs Control~~ Investigation, if the
18 dispenser has an appropriate hardship.

19 SECTION 27. AMENDATORY 63 O.S. 2011, Section 2-309D, as
20 last amended by Section 35, Chapter 210, O.S.L. 2016 (63 O.S. Supp.
21 2017, Section 2-309D), is amended to read as follows:

22 Section 2-309D. A. The information collected at the central
23 repository pursuant to the Anti-Drug Diversion Act shall be
24

1 confidential and shall not be open to the public. Access to the
2 information shall be limited to:

3 1. Peace officers certified pursuant to Section 3311 of Title
4 70 of the Oklahoma Statutes who are employed as investigative agents
5 of the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs~~
6 ~~Control~~ Investigation;

7 2. The United States Drug Enforcement Administration Diversion
8 Group Supervisor;

9 3. The executive director or chief investigator, as designated
10 by each board, of the following state boards:

- 11 a. Board of Podiatric Medical Examiners,
- 12 b. Board of Dentistry,
- 13 c. State Board of Pharmacy,
- 14 d. State Board of Medical Licensure and Supervision,
- 15 e. State Board of Osteopathic Examiners,
- 16 f. State Board of Veterinary Medical Examiners,
- 17 g. Oklahoma Health Care Authority,
- 18 h. Department of Mental Health and Substance Abuse
19 Services,
- 20 i. Board of Examiners in Optometry,
- 21 j. Board of Nursing,
- 22 k. Office of the Chief Medical Examiner, and
- 23 l. State Board of Health;

24

1 4. A multicounty grand jury properly convened pursuant to the
2 Multicounty Grand Jury Act;

3 5. Medical practitioners employed by the United States
4 Department of Veterans Affairs, the United States Military, or other
5 federal agencies treating patients in this state; and

6 6. At the discretion of the Director of the Oklahoma State
7 Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation,
8 medical practitioners and their staff, including those employed by
9 the federal government in this state.

10 B. This section shall not prevent access, at the discretion of
11 the Director of the Oklahoma State Bureau of ~~Narcotics and Dangerous~~
12 ~~Drugs Control~~ Investigation, to investigative information by peace
13 officers and investigative agents of federal, state, county or
14 municipal law enforcement agencies, district attorneys and the
15 Attorney General in furtherance of criminal, civil or administrative
16 investigations or prosecutions within their respective
17 jurisdictions, designated legal, communications, and analytical
18 employees of the Bureau, and to registrants in furtherance of
19 efforts to guard against the diversion of controlled dangerous
20 substances.

21 C. This section shall not prevent the disclosure, at the
22 discretion of the Director of the Oklahoma State Bureau of ~~Narcotics~~
23 ~~and Dangerous Drugs Control~~ Investigation, of statistical
24 information gathered from the central repository to the general

1 public which shall be limited to types and quantities of controlled
2 substances dispensed and the county where dispensed.

3 D. This section shall not prevent the disclosure, at the
4 discretion of the Director of the Oklahoma State Bureau of ~~Narcotics~~
5 ~~and Dangerous Drugs Control~~ Investigation, of prescription-
6 monitoring-program information to prescription-monitoring programs
7 of other states provided a reciprocal data-sharing agreement is in
8 place.

9 E. The Department of Mental Health and Substance Abuse Services
10 and the State Department of Health may utilize the information in
11 the central repository for statistical, research, substance abuse
12 prevention, or educational purposes, provided that consumer
13 confidentiality is not compromised.

14 F. Any unauthorized disclosure of any information collected at
15 the central repository provided by the Anti-Drug Diversion Act shall
16 be a misdemeanor. Violation of the provisions of this section shall
17 be deemed willful neglect of duty and shall be grounds for removal
18 from office.

19 G. 1. Registrants shall have access to the central repository
20 for the purposes of patient treatment and for determination in
21 prescribing or screening new patients. The patient's history may be
22 disclosed to the patient for the purposes of treatment of
23 information at the discretion of the physician.

24

1 2. a. Prior to prescribing or authorizing for refill, if one
2 hundred eighty (180) days have elapsed prior to the
3 previous access and check, of opiates, synthetic
4 opiates, semisynthetic opiates, benzodiazepine or
5 carisoprodol to a patient of record, registrants or
6 members of their medical or administrative staff shall
7 be required until October 31, 2020, to access the
8 information in the central repository to assess
9 medical necessity and the possibility that the patient
10 may be unlawfully obtaining prescription drugs in
11 violation of the Uniform Controlled Dangerous
12 Substances Act. The duty to access and check shall
13 not alter or otherwise amend appropriate medical
14 standards of care. The registrant or medical provider
15 shall note in the patient file that the central
16 repository has been checked and may maintain a copy of
17 the information.

18 b. The requirements set forth in subparagraph a of this
19 paragraph shall not apply:

20 (1) to medical practitioners who prescribe the
21 controlled substances set forth in subparagraph a
22 of this paragraph for hospice or end-of-life
23 care, or
24

1 (2) for a prescription of a controlled substance set
2 forth in subparagraph a of this paragraph that is
3 issued by a practitioner for a patient residing
4 in a nursing facility as defined by Section 1-
5 1902 of this title, provided that the
6 prescription is issued to a resident of such
7 facility.

8 3. Registrants shall not be liable to any person for any claim
9 of damages as a result of accessing or failing to access the
10 information in the central repository and no lawsuit may be
11 predicated thereon.

12 H. The State Board of Podiatric Examiners, the State Board of
13 Dentistry, the State Board of Medical Licensure and Supervision, the
14 State Board of Examiners in Optometry, the State Board of Nursing,
15 the State Board of Osteopathic Examiners and the State Board of
16 Veterinary Medical Examiners shall have the sole responsibility for
17 enforcement of the provisions of subsection G of this section.
18 Nothing in this section shall be construed so as to permit the
19 Director of the Oklahoma State Bureau of ~~Narcotics and Dangerous~~
20 ~~Drugs Control~~ Investigation to assess administrative fines provided
21 for in Section 2-304 of this title.

22 I. The Director of the Oklahoma State Bureau of ~~Narcotics and~~
23 ~~Dangerous Drugs Control~~ Investigation, or a designee thereof, shall
24 provide a monthly list to the Directors of the State Board of

1 Podiatric Examiners, the State Board of Dentistry, the State Board
2 of Medical Licensure and Supervision, the State Board of Examiners
3 in Optometry, the State Board of Nursing, the State Board of
4 Osteopathic Examiners and the State Board of Veterinary Medical
5 Examiners of the top twenty prescribers of controlled dangerous
6 substances within their respective areas of jurisdiction. Upon
7 discovering that a registrant is prescribing outside the limitations
8 of his or her licensure or outside of drug registration rules or
9 applicable state laws, the respective licensing board shall be
10 notified by the Bureau in writing. Such notifications may be
11 considered complaints for the purpose of investigations or other
12 actions by the respective licensing board. Licensing boards shall
13 have exclusive jurisdiction to take action against a licensee for a
14 violation of subsection G of this section.

15 J. Information regarding fatal and nonfatal overdoses, other
16 than statistical information as required by Section 2-106 of this
17 title, shall be completely confidential. Access to this information
18 shall be strictly limited to the Director of the Oklahoma State
19 Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation or
20 designee, the Chief Medical Examiner, state agencies and boards
21 provided in subsection A of this section, and the registrant that
22 enters the information. Registrants shall not be liable to any
23 person for a claim of damages for information reported pursuant to
24 the provisions of Section 2-105 of this title.

1 K. The Director of the Oklahoma State Bureau of ~~Narcotics and~~
2 ~~Dangerous Drugs Control~~ Investigation shall provide adequate means
3 and procedures allowing access to central repository information for
4 registrants lacking direct computer access.

5 L. Upon completion of an investigation in which it is
6 determined that a death was caused by an overdose, either
7 intentionally or unintentionally, of a controlled dangerous
8 substance, the medical examiner shall be required to report the
9 decedent's name and date of birth to the Oklahoma State Bureau of
10 ~~Narcotics and Dangerous Drugs Control~~ Investigation. The Oklahoma
11 State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation
12 shall be required to maintain a database containing the
13 classification of medical practitioners who prescribed or authorized
14 controlled dangerous substances pursuant to this subsection.

15 SECTION 28. AMENDATORY 63 O.S. 2011, Section 2-309E, is
16 amended to read as follows:

17 Section 2-309E. A. All access to information in the central
18 repository shall be controlled by and made through the Oklahoma
19 State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation.

20 B. For the purposes of court proceedings, the Director of the
21 Bureau, or designee, shall be the designated keeper of the records.

22 SECTION 29. AMENDATORY 63 O.S. 2011, Section 2-309F, as
23 amended by Section 2, Chapter 340, O.S.L. 2013 (63 O.S. Supp. 2017,
24 Section 2-309F), is amended to read as follows:

1 Section 2-309F. A. The central repository provided by the
2 Anti-Drug Diversion Act shall:

3 1. Be capable of providing the collected information in forms
4 required by the Oklahoma State Bureau of ~~Narcotics and Dangerous~~
5 ~~Drugs Control~~ Investigation, including but not limited to,
6 dispensations by prescriber name or registration number, dispenser
7 name or registration number, recipient name or identification
8 number, type of substance, frequency, quantity, and location of
9 dispensation;

10 2. Provide the Bureau with continual, twenty-four-hour per day,
11 on-line access to the collected information;

12 3. Secure the collected information against access by
13 unauthorized persons;

14 4. Provide the Bureau, in a reasonable time, with all collected
15 information in a format readily usable by the Bureau, in the event
16 the relationship between the state and central repository is
17 terminated; and

18 5. Not withhold access to the collected information for any
19 reason other than failure of the Bureau to timely pay agreed fees
20 and charges for use of the central repository.

21 B. The Bureau is authorized to enter into a contract with a
22 vendor to serve as the central repository provided for in the Anti-
23 Drug Diversion Act or to purchase the necessary equipment to create
24 the central repository within the Bureau. The Bureau is authorized

1 to enter into agreements and contracts with vendors as necessary to
2 facilitate the electronic transmission of data contained within the
3 central repository to registrants and other persons as provided for
4 in Section 2-309D of this title. The central repository shall not
5 be subject to the provisions of Sections 34.6 through 34.33 of Title
6 62 of the Oklahoma Statutes and shall be maintained and controlled
7 by personnel of the Bureau pursuant to the confidentiality
8 requirements provided for in Section 2-309D of this title.

9 SECTION 30. AMENDATORY 63 O.S. 2011, Section 2-309G, is
10 amended to read as follows:

11 Section 2-309G. The Oklahoma State Bureau of ~~Narcotics and~~
12 ~~Dangerous Drugs Control~~ Investigation shall develop criteria for the
13 production of exception reports out of the information collected at
14 the central repository. In developing these criteria, the Bureau
15 shall seek the counsel of the following entities:

- 16 1. Board of Podiatric Medical Examiners;
- 17 2. Board of Dentistry;
- 18 3. Board of Pharmacy;
- 19 4. State Board of Medical Licensure and Supervision;
- 20 5. State Board of Osteopathic Examiners;
- 21 6. State Board of Veterinary Medical Examiners;
- 22 7. Oklahoma Podiatric Medical Association;
- 23 8. Oklahoma Dental Association;
- 24 9. Oklahoma Pharmaceutical Association;

1 10. Oklahoma State Medical Association;

2 11. Oklahoma Osteopathic Association; and

3 12. Oklahoma Veterinary Medical Association.

4 SECTION 31. AMENDATORY 63 O.S. 2011, Section 2-309H, is
5 amended to read as follows:

6 Section 2-309H. The Director of the Oklahoma State Bureau of
7 ~~Narcotics and Dangerous Drugs Control~~ Investigation shall promulgate
8 and adopt rules to implement and enforce the Anti-Drug Diversion
9 Act.

10 SECTION 32. AMENDATORY 63 O.S. 2011, Section 2-315, as
11 amended by Section 6, Chapter 305, O.S.L. 2015 (63 O.S. Supp. 2017,
12 Section 2-315), is amended to read as follows:

13 Section 2-315. A. Except as otherwise provided by law, any
14 person required to obtain an annual registration pursuant to Section
15 2-302 of this title, or any group home, or residential care home as
16 defined by Section 1-820 of this title shall submit for destruction
17 all controlled dangerous substances which are out of date, which are
18 unwanted, unused or which are abandoned by their owner at their
19 facility due to death or other circumstances.

20 B. All controlled dangerous substances described in subsection
21 A of this section shall be submitted to the Oklahoma City laboratory
22 of the Oklahoma State Bureau of Investigation, along with all
23 required information on forms provided by the Oklahoma State Bureau
24 of Investigation, to the federal Drug Enforcement Administration, to

1 a duly registered reverse distributor, to the original registered
2 supplier or their registered agent, to a duly registered retail
3 pharmacy, or to a hospital or clinic with an on-site pharmacy
4 pursuant to the rules set forth in Part 1317 of Title 21 of the Code
5 of Federal Regulations. When any such substance is transported by
6 private contract or common carrier or United States Postal Service
7 for the purpose of destruction, the sender shall require a receipt
8 from such private contract or common carrier or United States Postal
9 Service, and such receipt shall be retained as a permanent record by
10 the sender.

11 C. Controlled dangerous substances submitted to the Oklahoma
12 State Bureau of Investigation pursuant to the provisions of this
13 section shall be destroyed pursuant to the procedures provided in
14 subsection A of Section 2-508 of this title.

15 Controlled dangerous substances submitted to any distributors,
16 reverse distributors or their original registered suppliers pursuant
17 to the provisions of this section shall be destroyed by incineration
18 so as to make the substance absolutely unusable for human purposes.
19 An official record listing the property destroyed, the location of
20 destruction and disposal, and the name and title of the person
21 supervising the destruction and disposal shall be submitted to the
22 Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~
23 Investigation and the federal Drug Enforcement Administration office
24 located nearest the destruction site.

1 D. The Office of the Chief Medical Examiner is hereby
2 authorized to perform on-site incineration of all controlled
3 dangerous substances which are obtained in the discharge of the
4 official duties of the Chief Medical Examiner. Any record relating
5 to destruction of a controlled dangerous substance shall be
6 maintained as required by the state or federal government and shall
7 be available for inspection by appropriate state or federal
8 government regulatory agencies.

9 E. This section shall constitute a part of the Uniform
10 Controlled Dangerous Substances Act.

11 SECTION 33. AMENDATORY 63 O.S. 2011, Section 2-322, is
12 amended to read as follows:

13 Section 2-322. A. No person or business shall possess, sell,
14 manufacture, transfer, or otherwise furnish any of the following
15 precursor substances without first having a permit or license issued
16 by the Director of the Oklahoma State Bureau of ~~Narcotics and~~
17 ~~Dangerous Drugs Control~~ Investigation, except as provided in Section
18 2-327 of this title:

- 19 1. D-Lysergic acid;
- 20 2. Ergotamine and its salts;
- 21 3. Ergonovine and its salts;
- 22 4. Methylamine;
- 23 5. Ethylamine;
- 24 6. Phenyl-2-Propanone;

- 1 7. Phenylacetic acid and its salts;
- 2 8. Ephedrine, its salts, optical isomers and salts of optical
- 3 isomers;
- 4 9. Norpseudoephedrine, its salts, optical isomers, and salts of
- 5 optical isomers;
- 6 10. Phenylpropanolamine, its salts, optical isomers and salts
- 7 of optical isomers;
- 8 11. Benzyl cyanide;
- 9 12. N-methylephedrine, its salts, optical isomers and salts of
- 10 optical isomers;
- 11 13. Pseudoephedrine, its salts, optical isomers and salts of
- 12 optical isomers;
- 13 14. Chloroephedrine, its salts, optical isomers and salts of
- 14 optical isomers;
- 15 15. Piperidine and its salts;
- 16 16. Pyrrolidine and its salts;
- 17 17. Propionic anhydride;
- 18 18. Isosafrole;
- 19 19. Safrole;
- 20 20. Piperonal; and
- 21 21. Red Phosphorus.
- 22 B. Upon completion of an application for a license pursuant to
- 23 Section 2-323 of this title, or a permit pursuant to Section 2-324
- 24 of this title, the Director of the Oklahoma State Bureau of

1 ~~Narcotics and Dangerous Drugs Control~~ Investigation shall either
2 grant or deny such license or permit. A denial of an application
3 for a permit or license shall be handled as provided by Section 2-
4 325 of this title.

5 SECTION 34. AMENDATORY 63 O.S. 2011, Section 2-323, is
6 amended to read as follows:

7 Section 2-323. A. A manufacturer, wholesaler, retailer, or
8 other person who sells, transfers, or otherwise furnishes any
9 precursor substance defined in Section ~~4~~ 2-322 of this ~~act~~ title
10 must first obtain a license annually from the Director of the
11 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

12 B. The procedure for obtaining a license to sell, transfer,
13 manufacture, purchase for resale, or otherwise furnish a precursor
14 substance shall be as follows:

15 1. Obtain an application from the Oklahoma State Bureau of
16 ~~Narcotics and Dangerous Drugs Control~~ Investigation;

17 2. Submit the application to the Director of the Oklahoma State
18 Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation; and

19 3. Demonstrate a legitimate reason to sell, transfer, or
20 otherwise furnish precursor chemicals.

21 C. The content of the application for a license shall include,
22 but not be limited to, the following information:

23 1. Name of business;

24 2. Address of business other than a post office box number;

- 1 3. Phone number of business;
- 2 4. Names and addresses of business owners;
- 3 5. Location of storage facility;
- 4 6. Identification of precursor substances to be sold; and
- 5 7. Criminal history of applicant.

6 D. A licensee shall make an accurate and legible record of any
 7 transaction of precursor substances and maintain such record
 8 together with the following records for a period of at least two (2)
 9 years:

- 10 1. Inventory on hand;
- 11 2. Purchase receipts;
- 12 3. Manufacturing records including the date and quantity of any
 13 precursor substance manufactured, the quantity of precursor
 14 substances used in manufacturing any other substance or product, and
 15 the inventory on hand of precursor substances after the
 16 manufacturing of any other substance or product;
- 17 4. Copies of the Oklahoma State Bureau of ~~Narcotics~~
 18 Investigation purchase permits or written authorization waving the
 19 permit requirement, as provided by subsection E of Section ~~6~~ 2-324
 20 of this ~~act~~ title; and
- 21 5. Records of substance disposal.

22 E. The license shall cost One Hundred Dollars (\$100.00)
 23 annually and shall be renewable on July 1 of each year. The fee
 24

1 shall be payable to the ~~Oklahoma State Bureau of~~ Narcotics Revolving
2 Fund.

3 SECTION 35. AMENDATORY 63 O.S. 2011, Section 2-324, is
4 amended to read as follows:

5 Section 2-324. A. Any person or business having a legitimate
6 need for using precursor substances defined in Section 4 2-322 of
7 this ~~act~~ title, shall apply in person to the Director of the
8 Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~
9 Investigation, or ~~his~~ designee, for a permit to possess such
10 substances each time said substance is obtained.

11 B. The following must be submitted in person to the Director of
12 the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~
13 Investigation, or ~~his~~ designee, to receive a permit for possession
14 of precursor substances:

15 1. A ~~driver's~~ driver license number or other personal
16 identification certificate number, date of birth, residential or
17 mailing address, other than a post office box number, and a ~~driver's~~
18 driver license or personal identification card issued by the
19 Department of Public Safety which contains a photograph of the
20 recipient. In the event the applicant is a corporation, the
21 information in this paragraph shall be required of the person making
22 application for the permit. In addition, the person making
23 application for the permit on behalf of a corporation shall disclose
24 his or her relationship to the corporation;

1 2. A complete description of how the substance is to be used;
2 and

3 3. The location where the substance is to be stored and used.

4 C. The permit shall consist of three parts, including:

5 1. A copy to be retained by the Oklahoma State Bureau of
6 ~~Narcotics and Dangerous Drugs Control~~ Investigation;

7 2. A copy to be retained by the manufacturer, wholesaler,
8 retailer, or other person furnishing precursor substances; and

9 3. A copy to be attached to the container of the precursor
10 substances and to be kept with the substances at all times.

11 D. The permit shall cost Ten Dollars (\$10.00) and shall be
12 payable to the ~~Oklahoma State Bureau of Narcotics and Dangerous~~
13 ~~Drugs Control~~ Revolving Fund.

14 E. The Director may authorize in writing any person or business
15 to submit a comprehensive monthly report in lieu of the permit
16 required by this section, if the Director determines that the
17 recipient has established a record of utilization of the substance
18 solely for a lawful purpose.

19 SECTION 36. AMENDATORY 63 O.S. 2011, Section 2-326, is
20 amended to read as follows:

21 Section 2-326. A. Any person or business, licensed or
22 permitted, who discovers a loss or theft of, or disposes of a
23 substance listed in Section 4 2-322 of this ~~act~~ title shall:

24

1 1. Submit a report of the loss, theft, or disposal to the
2 Director of the Oklahoma State Bureau of ~~Narcotics and Dangerous~~
3 ~~Drugs Control~~ Investigation no later than the third business day
4 after the date the manufacturer, wholesaler, retailer, or other
5 person discovers the loss or theft, or after the actual disposal;
6 and

7 2. Include the amount of loss, theft, or disposal in the
8 report. Any disposal of precursor substances must be done in
9 accordance with the rules and regulations of the United States
10 Environmental Protection Administration and shall be performed at
11 the expense of the permit or license holder.

12 B. A manufacturer, wholesaler, retailer, or other person who
13 sells, transfers, possesses, uses, or otherwise furnishes any
14 precursor substance shall:

15 1. Maintain records as specified in Section ~~5~~ 2-323 of this ~~act~~
16 title;

17 2. Permit agents of the Oklahoma State Bureau of ~~Narcotics and~~
18 ~~Dangerous Drugs Control~~ Investigation to conduct on-site audits,
19 inspect inventory on hand and inspect all records made in accordance
20 with this act at any reasonable time; and

21 3. Cooperate with the audit, and the full and complete
22 inspection or copying of any records.
23
24

1 SECTION 37. AMENDATORY 63 O.S. 2011, Section 2-329, as
2 amended by Section 3, Chapter 83, O.S.L. 2012 (63 O.S. Supp. 2017,
3 Section 2-329), is amended to read as follows:

4 Section 2-329. A. In addition to any fine or imprisonment
5 imposed under Section 2-328 of this title, the following drug
6 cleanup fine may be imposed:

7 1. Up to Ten Thousand Dollars (\$10,000.00) for violations
8 described in subsection A of Section 2-328 of this title or Section
9 2-401 of this title; and

10 2. Up to One Hundred Thousand Dollars (\$100,000.00) for
11 violations described in subsections C, D or E of Section 2-328 of
12 this title.

13 B. All fines collected under this section shall be transferred
14 to the ~~Bureau of~~ Narcotics Revolving Fund, pursuant to Section 2-107
15 of this title.

16 SECTION 38. AMENDATORY 63 O.S. 2011, Section 2-330, is
17 amended to read as follows:

18 Section 2-330. A. Every law enforcement agency in this state
19 shall notify the Oklahoma State Bureau of ~~Narcotics and Dangerous~~
20 ~~Drugs Control~~ Investigation within ten (10) days of any officer of
21 such agency seizing:

22 1. Any precursor chemical, as defined in the Precursor
23 Substances Act, used or allegedly used, in full or in part, to
24 manufacture any controlled substance; and

1 2. Any drug paraphernalia relating to an illegal laboratory,
2 including but not limited to any glassware, instruments, devices,
3 utensils or other objects or equipment used or allegedly used, in
4 full or in part, to manufacture any controlled substance.

5 B. The Bureau may promulgate rules and forms to facilitate the
6 required notification pursuant to this section.

7 SECTION 39. AMENDATORY 63 O.S. 2011, Section 2-331, is
8 amended to read as follows:

9 Section 2-331. It shall be the duty of any peace officer of the
10 State of Oklahoma who seizes any glassware, instruments, devices,
11 utensils or precursor chemicals, as defined by Section 2-322 of
12 ~~Title 63 of the Oklahoma Statutes~~ this title, which have been used
13 or were intended to be used in the illicit manufacturing of any
14 controlled dangerous substance, in full or in part, to make notice
15 of the seizure in writing to the Oklahoma State Bureau of ~~Narcotics~~
16 ~~and Dangerous Drugs Control~~ Investigation.

17 SECTION 40. AMENDATORY 63 O.S. 2011, Section 2-332, as
18 amended by Section 6, Chapter 181, O.S.L. 2013 (63 O.S. Supp. 2017,
19 Section 2-332), is amended to read as follows:

20 Section 2-332. A. It shall be unlawful for a person to
21 knowingly and unlawfully possess a drug product containing
22 ephedrine, pseudoephedrine or phenylpropanolamine, or their salts,
23 isomers or salts of isomers with intent to use the product as a
24

1 precursor to manufacture methamphetamine or another controlled
2 substance.

3 B. Except as provided in this subsection, possession of a drug
4 product containing more than seven and two-tenths (7.2) grams of
5 ephedrine, pseudoephedrine or phenylpropanolamine, or their salts,
6 isomers or salts of isomers shall constitute a rebuttable
7 presumption of the intent to use the product as a precursor to
8 methamphetamine or another controlled substance. The rebuttable
9 presumption established by this subsection shall not apply to the
10 following persons who are lawfully possessing drug products in the
11 course of legitimate business:

12 1. A retail distributor of drug products or wholesaler;

13 2. A wholesale drug distributor, or its agents, licensed by the
14 Board of Pharmacy;

15 3. A manufacturer of drug products, or its agents, licensed by
16 the Board of Pharmacy;

17 4. A pharmacist licensed by the Board of Pharmacy; and

18 5. A licensed healthcare professional possessing the drug
19 products in the course of carrying out his profession.

20 C. A violation of subsection A of this section shall be a
21 felony punishable as provided for in subsection G of Section 2-401
22 of this title.

23 D. Any wholesaler, manufacturer, or distributor of drug
24 products containing pseudoephedrine or phenylpropanolamine, or their

1 salts, isomers, or salts of isomers shall obtain a registration
2 annually from the Oklahoma State Bureau of ~~Narcotics and Dangerous~~
3 ~~Drugs Control~~ Investigation. Any such wholesaler, manufacturer, or
4 distributor shall keep complete records of all transactions
5 involving such drug products including the names of all parties
6 involved in the transaction and amount of the drug products
7 involved. The records shall be kept readily retrievable and
8 separate from all other invoices or records of transactions not
9 involving such drug products, and shall be maintained for not less
10 than three (3) years.

11 E. As used in this section:

12 1. "Manufacturer" means any person within this state who
13 produces, compounds, packages, or in any manner initially prepares
14 for sale or use any drug product described in subsection D of this
15 section, or any such person in another state if they cause the
16 products to be compounded, packaged, or transported into this state;

17 2. "Wholesaler" means any person within this state or another
18 state, other than a manufacturer, who sells, transfers, or in any
19 manner furnishes a drug product described in subsection A of this
20 section to any other person in this state for the purpose of being
21 resold;

22 3. "Distributor" means any person within this state or another
23 state, other than a manufacturer or wholesaler, who sells, delivers,
24 transfers, or in any manner furnishes a drug product described in

1 subsection A of this section to any person who is not the ultimate
2 user or consumer of the product; and

3 4. "Readily retrievable" means available for inspection without
4 prior notice at the registration address if that address is within
5 the State of Oklahoma. If the registration address is in a state
6 other than Oklahoma, it means records must be furnished within three
7 (3) working days by courier, facsimile, mail or electronic mail.

8 F. Any substances possessed without a registration as provided
9 in subsection D of this section shall be subject to forfeiture upon
10 conviction for a violation of this section.

11 G. In addition to any administrative penalties provided by law,
12 any violation of subsection D of this section shall be a
13 misdemeanor, punishable upon conviction by a fine only in an amount
14 not more than Ten Thousand Dollars (\$10,000.00).

15 SECTION 41. AMENDATORY 63 O.S. 2011, Section 2-333, is
16 amended to read as follows:

17 Section 2-333. A. It shall be unlawful for any person to
18 knowingly sell, transfer, distribute, or dispense any product
19 containing ephedrine, pseudoephedrine or phenylpropanolamine, or
20 their salts, isomers or salts of isomers if the person knows that
21 the purchaser will use the product as a precursor to manufacture
22 methamphetamine or another controlled illegal substance or if the
23 person sells, transfers, distributes or dispenses the product with
24 reckless disregard as to how the product will be used.

1 B. A violation of this section shall be a felony punishable by
2 imprisonment in the ~~State Penitentiary~~ custody of the Department of
3 Corrections for a term of not more than ten (10) years.

4 C. Any person who sells, transfers, distributes, dispenses, or
5 in any manner furnishes any product containing pseudoephedrine or
6 phenylpropanolamine, or their salts, isomers, or salts of isomers in
7 a negligent manner, with knowledge or reason to know that the
8 product will be used as a precursor to manufacture methamphetamine
9 or any other illegal controlled substance, or with reckless
10 disregard as to how the product will be used, shall be liable for
11 all damages, whether directly or indirectly caused by the sale,
12 transfer, distribution, dispensation, or furnishing.

13 1. Such damages may include, but are not limited to, any and
14 all costs of detecting, investigating, and cleaning up or
15 remediating clandestine or other unlawfully operated or maintained
16 laboratories where controlled dangerous substances are manufactured,
17 any and all costs of prosecuting criminal cases arising from such
18 manufacture, and any and all consequential and punitive damages
19 otherwise allowed by law.

20 2. A civil action to recover damages against persons,
21 corporations or other entities violating this subsection may be
22 brought only by the Attorney General, the Director of the Oklahoma
23 State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation
24 or by any district attorney in whose jurisdiction such person may be

1 shown to have committed such violation. Any funds recovered from
2 such an action shall be used for payment or reimbursement of costs
3 arising from investigating or prosecuting criminal or civil cases
4 involving the manufacture of controlled dangerous substances, for
5 drug education programs, or for payment or reimbursement of
6 remediating contaminated methamphetamine laboratory sites.

7 D. Violation of subsection A or C of this section shall be
8 considered to affect at the same time an entire community or
9 neighborhood, or any considerable number of persons, although the
10 extent of the annoyance or damage inflicted upon the individuals may
11 be unequal and is subject to the provisions of Section 2 of Title 50
12 of the Oklahoma Statutes and Section 1397 of Title 12 of the
13 Oklahoma Statutes.

14 SECTION 42. AMENDATORY Section 1, Chapter 206, O.S.L.
15 2012 (63 O.S. Supp. 2017, Section 2-341), is amended to read as
16 follows:

17 Section 2-341. A. Beginning January 1, 2013, any pharmacy that
18 dispenses, sells or distributes any compound mixture or preparation
19 containing any detectable quantity of base pseudoephedrine or
20 ephedrine, its salts or optical isomers, or salts of optical isomers
21 shall maintain an electronic record of the sale. The electronic
22 record of the sale shall include the following information:

- 23 1. Name and address of the purchaser;
- 24 2. Date of birth of the purchaser;

1 3. Type of identification and number;

2 4. Date and time of the purchase;

3 5. Name and quantity of base pseudoephedrine or ephedrine
4 purchased in grams, but not the overall weight of the products; and

5 6. Name, initials and registration number of the licensed
6 pharmacist or registered pharmacy technician.

7 If the electronic tracking service is not able to record the
8 identification type and identification number of the purchaser, the
9 licensed pharmacist or a registered pharmacy technician shall write
10 the identification type and number on the order. The electronic
11 record shall also be maintained in a manner that allows for the
12 determination of the equivalent number of packages purchased and
13 total quantity of base ephedrine or pseudoephedrine purchased.

14 B. By January 1, 2013, each pharmacy in this state shall have
15 in place and operational all equipment necessary to access and use a
16 real-time electronic methamphetamine precursor tracking service
17 which is approved by the Oklahoma State Bureau of ~~Narcotics and~~
18 ~~Dangerous Drugs Control~~ Investigation. The electronic
19 methamphetamine precursor tracking service shall be available free
20 of charge to all law enforcement agencies within the state for
21 purposes of viewing and searching the database. Pharmacies shall be
22 permitted to access only the information that is submitted by the
23 pharmacy and such access shall be available free of charge. The
24 electronic methamphetamine precursor tracking service shall be self-

1 sustaining and shall not require the use of any public funds in the
2 form of state or federal fees or taxes, to create, deploy, or
3 operate. The tracking service shall operate and communicate in
4 real-time throughout the state and across state lines with similar
5 multistate systems. The tracking service shall be capable of
6 tracking all required information and generating a stop-sale alert
7 to notify a pharmacy that an attempted purchase by a person of
8 pseudoephedrine or ephedrine exceeds the quantity limits set forth
9 in Section 2-212 of ~~Title 63 of the Oklahoma Statutes~~ this title.
10 The tracking service shall have the capability of stopping an
11 illegal purchase in real-time and shall contain an override function
12 that allows a pharmacy to complete a sale in violation of this
13 section if the circumstances require that such sale be completed.
14 The tracking service shall be in real time and track all override
15 sales made by the pharmacy. The Bureau shall select a vendor that
16 meets the requirements specified in this section by no later than
17 October 1, 2012.

18 C. Beginning January 1, 2013, before completing the sale of an
19 over-the-counter product containing pseudoephedrine or ephedrine, a
20 pharmacy shall electronically submit the required information to the
21 electronic methamphetamine precursor tracking service. The pharmacy
22 shall not complete the sale of the product if the electronic
23 methamphetamine precursor tracking service generates a stop-sale
24 alert.

1 D. Absent intentional violation of this act, any pharmacy
2 utilizing the electronic methamphetamine precursor tracking service
3 in accordance with this section shall not be civilly liable as a
4 result of any act or omission in carrying out the duties required by
5 this section. Such pharmacies shall also be immune from liability
6 to any third party unless the pharmacy has violated a provision of
7 this section in relation to a claim brought for such violation. The
8 provisions of this section shall not apply to a person who obtains
9 the product or products pursuant to a valid prescription.

10 E. The information entered, stored and maintained by the
11 electronic methamphetamine precursor tracking service shall be
12 confidential and shall only be accessed by law enforcement
13 officials, health care professionals and licensed pharmacists for
14 the purpose of controlling the sale of methamphetamine precursors.

15 F. If a pharmacy selling an over-the-counter product containing
16 pseudoephedrine or ephedrine experiences mechanical or electronic
17 failure of the electronic tracking service and is unable to comply
18 with the provisions of this section, the pharmacy shall maintain a
19 written log until such time as the pharmacy is able to comply with
20 the electronic tracking service requirements.

21 G. A pharmacy selling an over-the-counter product containing
22 pseudoephedrine or ephedrine may seek an exemption from submitting
23 transactions to the electronic tracking service in writing to the
24 Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~

1 Investigation stating the reasons for such exemption. The Bureau
2 may grant an exemption for good cause, but in no event shall such
3 exemption exceed one hundred eighty (180) days. Any pharmacy that
4 receives an exemption shall maintain a hard-copy logbook and shall
5 require the purchaser to provide the information required pursuant
6 to subsection A of this section before completion of any sale. The
7 logbook shall be maintained as a record of each sale for inspection
8 by any law enforcement official during normal business hours.

9 H. All data that is collected from the pharmacies of this state
10 and stored in the electronic methamphetamine precursor tracking
11 service shall be downloaded and exported by electronic means to the
12 Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~
13 Investigation at least every twenty-four (24) hours. The export of
14 data shall be in a version that is in compliance with the standards
15 agreed to by both the Oklahoma State Bureau of ~~Narcotics and~~
16 ~~Dangerous Drugs Control~~ Investigation and the provider of the
17 electronic methamphetamine precursor tracking service. The export
18 of data shall be executed by way of a memorandum of understanding
19 and without charge to the Oklahoma State Bureau of ~~Narcotics and~~
20 ~~Dangerous Drugs Control~~ Investigation. Any and all data exported
21 to, obtained by, gathered by, transmitted to or stored by the
22 Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~
23 Investigation or its designee shall be the property of the state.
24 The Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~

1 Investigation shall have the authority to control, administer, and
2 disseminate at the discretion of the Bureau, the transaction data
3 for the purpose of enforcing federal and state laws. In addition to
4 exporting data to the Oklahoma State Bureau of ~~Narcotics and~~
5 ~~Dangerous Drugs Control~~ Investigation, real-time access to
6 information contained in the electronic methamphetamine precursor
7 tracking service through an online portal shall be provided to all
8 law enforcement agencies within the state free of charge.

9 I. The electronic methamphetamine precursor tracking service
10 shall generate a stop-sale alert if completion of a sale would
11 result in the seller or purchaser violating the quantity limits set
12 forth in Section 2-212 of ~~Title 63 of the Oklahoma Statutes~~ this
13 title. The electronic tracking service shall contain an override
14 function that may be used by a dispenser of pseudoephedrine or
15 ephedrine products who has a reasonable fear of imminent bodily harm
16 if the sale is not completed. Each instance in which the override
17 function is utilized shall be logged by the electronic tracking
18 service.

19 J. A person who violates any of the provisions of this section
20 shall, upon conviction, be guilty of a misdemeanor punishable by a
21 fine of not more than One Thousand Dollars (\$1,000.00). If the
22 person convicted is a licensed pharmacist or registered pharmacy
23 technician, the violation shall be reported to the State Board of
24 Pharmacy for review and appropriate action.

1 SECTION 43. AMENDATORY 63 O.S. 2011, Section 2-502, as
2 amended by Section 5, Chapter 390, O.S.L. 2017 (63 O.S. Supp. 2017,
3 Section 2-502), is amended to read as follows:

4 Section 2-502. A. Prescriptions, orders, and records, required
5 by this act, and stock of substances specified in this act shall be
6 open for inspection only to specifically designated or assigned
7 state, county, and municipal officers, whose duty it is to enforce
8 the laws of this state relating to controlled dangerous substances.
9 The Director of the Oklahoma State Bureau of ~~Narcotics and Dangerous~~
10 ~~Drugs Control~~ Investigation may designate noncommissioned personnel
11 as compliance inspectors for the purpose of conducting inspections
12 as contemplated herein. No person having knowledge by virtue of his
13 or her office of any such prescription, order or record shall
14 divulge such knowledge, except where such use is appropriate to the
15 proper performance of his or her official duties in the prevention
16 of the misuse and abuse of controlled dangerous substances or in
17 connection with a prosecution or proceeding in court or before a
18 licensing or registration board or officer, to which prosecution or
19 proceeding the person to whom such prescriptions, orders, or records
20 relate is a party.

21 B. Any peace officer or agency charged with administration of
22 this act is authorized to make administrative inspections of
23 controlled premises in accordance with the following provisions:

24 1. For purposes of this act only, "controlled premises" means:

- 1 a. places where persons registered or exempted from
2 registration requirements under this act are required
3 to keep records, and
- 4 b. places including factories, warehouses,
5 establishments, and conveyances where persons
6 registered or exempted from registration requirements
7 under this act are permitted to hold, manufacture,
8 compound, process, sell, deliver, or otherwise dispose
9 of any controlled dangerous substance.

10 2. This section shall not be construed to prevent the
11 inspection of books and records pursuant to the provisions of this
12 act; nor shall this section be construed to prevent entries and
13 administrative inspections at reasonable times without a warrant:

- 14 a. with the consent of the owner, operator, or agent in
15 charge of the controlled premises,
- 16 b. in situations presenting imminent danger to health or
17 safety,
- 18 c. in situations involving inspection of conveyances
19 where there is reasonable cause to believe that the
20 mobility of the conveyance makes it impracticable to
21 obtain a warrant,
- 22 d. in any other exceptional or emergency circumstance
23 where time or opportunity to apply for a warrant is
24 lacking, and

1 e. in all other situations where a warrant is not
2 constitutionally required.

3 3. Except when the owner, operator, or agent in charge of the
4 controlled premises so consents in writing, no inspection authorized
5 by this section shall extend to:

- 6 a. financial data,
- 7 b. sales data other than shipment data, or
- 8 c. pricing data.

9 SECTION 44. AMENDATORY 63 O.S. 2011, Section 2-503, as
10 amended by Section 5, Chapter 154, O.S.L. 2014 (63 O.S. Supp. 2017,
11 Section 2-503), is amended to read as follows:

12 Section 2-503. A. The following shall be subject to
13 forfeiture:

14 1. All controlled dangerous substances and synthetic controlled
15 substances which have been manufactured, distributed, dispensed,
16 acquired, concealed or possessed in violation of the Uniform
17 Controlled Dangerous Substances Act;

18 2. All raw materials, products and equipment of any kind and
19 all drug paraphernalia as defined by the Uniform Controlled
20 Dangerous Substances Act, which are used, or intended for use, in
21 manufacturing, compounding, processing, delivering, importing or
22 exporting, injecting, ingesting, inhaling, or otherwise introducing
23 into the human body any controlled dangerous substance or synthetic
24

1 controlled substance in violation of the provisions of the Uniform
2 Controlled Dangerous Substances Act;

3 3. All property which is used, or intended for use, as a
4 container for property described in paragraphs 1, 2, 5 and 6 of this
5 subsection;

6 4. All conveyances, including aircraft, vehicles, vessels, or
7 farm implements which are used to transport, conceal, or cultivate
8 for the purpose of distribution as defined in the Uniform Controlled
9 Dangerous Substances Act, or which are used in any manner to
10 facilitate the transportation or cultivation for the purpose of sale
11 or receipt of property described in paragraphs 1 or 2 of this
12 subsection or when the property described in paragraphs 1 or 2 of
13 this subsection is unlawfully possessed by an occupant thereof,
14 except that:

- 15 a. no conveyance used by a person as a common carrier in
16 the transaction of business as a common carrier shall
17 be forfeited under the provisions of the Uniform
18 Controlled Dangerous Substances Act unless it shall
19 appear that the owner or other person in charge of
20 such conveyance was a consenting party or privy to a
21 violation of the Uniform Controlled Dangerous
22 Substances Act, and
- 23 b. no conveyance shall be forfeited under the provisions
24 of this section by reason of any act or omission

1 established by the owner thereof to have been
2 committed or omitted without the knowledge or consent
3 of such owner, and if the act is committed by any
4 person other than such owner the owner shall establish
5 further that the conveyance was unlawfully in the
6 possession of a person other than the owner in
7 violation of the criminal laws of the United States,
8 or of any state;

9 5. All books, records and research, including formulas,
10 microfilm, tapes and data which are used in violation of the Uniform
11 Controlled Dangerous Substances Act;

12 6. All things of value furnished, or intended to be furnished,
13 in exchange for a controlled dangerous substance in violation of the
14 Uniform Controlled Dangerous Substances Act, all proceeds traceable
15 to such an exchange, and all monies, negotiable instruments, and
16 securities used, or intended to be used, to facilitate any violation
17 of the Uniform Controlled Dangerous Substances Act;

18 7. All monies, coin and currency found in close proximity to
19 any amount of forfeitable substances, to forfeitable drug
20 manufacturing or distribution paraphernalia or to forfeitable
21 records of the importation, manufacture or distribution of
22 substances, which are rebuttably presumed to be forfeitable under
23 the Uniform Controlled Dangerous Substances Act. The burden of
24 proof is upon claimants of the property to rebut this presumption;

1 8. All real property, including any right, title, and interest
2 in the whole of any lot or tract of land and any appurtenance or
3 improvement thereto, which is used, or intended to be used, in any
4 manner or part, to commit, or to facilitate the commission of, a
5 violation of the Uniform Controlled Dangerous Substances Act which
6 is punishable by imprisonment for more than one (1) year, except
7 that no property right, title or interest shall be forfeited
8 pursuant to this paragraph, by reason of any act or omission
9 established by the owner thereof to have been committed or omitted
10 without the knowledge or consent of that owner; and

11 9. All weapons possessed, used or available for use in any
12 manner to facilitate a violation of the Uniform Controlled Dangerous
13 Substances Act.

14 B. Any property or thing of value of a person is subject to
15 forfeiture if it is established by a preponderance of the evidence
16 that such property or thing of value was acquired by such person
17 during the period of the violation of the Uniform Controlled
18 Dangerous Substances Act or within a reasonable time after such
19 period and there was no likely source for such property or thing of
20 value other than the violation of the Uniform Controlled Dangerous
21 Substances Act.

22 C. Any property or thing of value of a person is subject to
23 forfeiture if it is established by a preponderance of the evidence
24

1 that the person has not paid all or part of a fine imposed pursuant
2 to the provisions of Section 2-415 of this title.

3 D. All items forfeited in this section shall be forfeited under
4 the procedures established in Section 2-506 of this title. Whenever
5 any item is forfeited pursuant to this section except for items
6 confiscated by the ~~Oklahoma State Bureau of Narcotics and Dangerous~~
7 ~~Drugs Control~~, the Department of Public Safety, the Oklahoma State
8 Bureau of Investigation, the Alcoholic Beverage Laws Enforcement
9 Commission, the Department of Corrections, or the Office of the
10 Attorney General, the district court of the district shall order
11 that such item, money, or monies derived from the sale of such item
12 be deposited by the state, county or city law enforcement agency
13 which seized the item in the revolving fund provided for in Section
14 2-506 of this title; provided, such item, money or monies derived
15 from the sale of such item forfeited due to nonpayment of a fine
16 imposed pursuant to the provisions of Section 2-415 of this title
17 shall be apportioned as provided in Section 2-416 of this title.

18 Items, money or monies seized pursuant to subsections A and B of
19 this section shall not be applied or considered toward satisfaction
20 of the fine imposed by Section 2-415 of this title. All raw
21 materials used or intended to be used by persons to unlawfully
22 manufacture or attempt to manufacture any controlled dangerous
23 substance in violation of the Uniform Controlled Dangerous
24

1 Substances Act shall be summarily forfeited pursuant to the
2 provisions of Section 2-505 of this title.

3 E. All property taken or detained under this section by the
4 ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,~~ the
5 Department of Public Safety, the Oklahoma State Bureau of
6 Investigation, the Alcoholic Beverage Laws Enforcement Commission,
7 the Department of Corrections, or the Office of the Attorney
8 General, shall not be repleviable, but shall remain in the custody
9 of the Bureaus, Departments, Commission, or Office, respectively,
10 subject only to the orders and decrees of a court of competent
11 jurisdiction. The ~~Director of the Oklahoma State Bureau of~~
12 ~~Narcotics and Dangerous Drugs Control,~~ the Commissioner of Public
13 Safety, the Director of the Oklahoma State Bureau of Investigation,
14 the Director of the Alcoholic Beverage Laws Enforcement Commission,
15 the Director of the Department of Corrections, and the Attorney
16 General shall follow the procedures outlined in Section 2-506 of
17 this title dealing with notification of seizure, intent of
18 forfeiture, final disposition procedures, and release to innocent
19 claimants with regard to all property included in this section
20 detained by the Department of Public Safety, the Oklahoma State
21 Bureau of Investigation, the Alcoholic Beverage Laws Enforcement
22 Commission, the Department of Corrections, or the Office of the
23 Attorney General. Property taken or detained by the ~~Oklahoma State~~
24 ~~Bureau of Narcotics and Dangerous Drugs Control,~~ the Department of

1 Public Safety, the Oklahoma State Bureau of Investigation, the
2 Alcoholic Beverage Laws Enforcement Commission, the Department of
3 Corrections, or the Office of the Attorney General shall be disposed
4 of or sold pursuant to the provisions of Section 2-508 of this
5 title. Any money, coins, and currency, taken or detained pursuant
6 to this section may be deposited in an interest bearing account by
7 or at the direction of the State Treasurer if the seizing agency
8 determines the currency is not to be held as evidence. All interest
9 earned on such monies shall be returned to the claimant or forfeited
10 with the money, coins, and currency which was taken or detained as
11 provided by law.

12 F. The proceeds of any forfeiture of items seized by the
13 Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~
14 Investigation shall be distributed as follows:

15 1. To the bona fide or innocent purchaser, conditional sales
16 vendor or mortgagee of the property, if any, up to the amount of his
17 or her interest in the property, when the court declaring a
18 forfeiture orders a distribution to such person; and

19 2. The balance to the ~~Bureau~~ of Narcotics Revolving Fund
20 established pursuant to Section 2-107 of this title, provided the
21 Bureau may enter into agreements with municipal, tribal, county,
22 state or federal law enforcement agencies, or other state agencies
23 with CLEET-certified law enforcement officers, assisting in the
24

1 forfeiture or underlying criminal investigation, to return to such
2 an agency a percentage of said proceeds.

3 G. Any agency that acquires seized or forfeited property or
4 money shall maintain a true and accurate inventory and record of all
5 such property seized pursuant to this section.

6 SECTION 45. AMENDATORY 63 O.S. 2011, Section 2-503.1b,
7 is amended to read as follows:

8 Section 2-503.1b A. The Oklahoma State Bureau of ~~Narcotics and~~
9 ~~Dangerous Drugs Control~~ Investigation shall conduct a criminal
10 financial check on all registration applications submitted pursuant
11 to the provisions of Section 1513 of Title 6 of the Oklahoma
12 Statutes. The applicant for a money services business license shall
13 pay a fee of Fifty Dollars (\$50.00) to the Bureau for the criminal
14 financial check prior to licensing. This shall be in addition to
15 all other administrative fees imposed by the Oklahoma Banking
16 Department.

17 B. The Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs~~
18 ~~Control~~ Investigation shall have authority to access, review and
19 investigate any registration application and supplier reports
20 submitted to the Oklahoma State Banking Commissioner pursuant to
21 Section 1513 of Title 6 of the Oklahoma Statutes, for the purposes
22 of criminal financial checks, identifying or investigating
23 suspicious or illegal activities or to track illegal drug-related
24 monies. A copy of all money services transaction reports provided

1 to the Oklahoma State Banking Commissioner shall be provided to the
2 Bureau.

3 SECTION 46. AMENDATORY 63 O.S. 2011, Section 2-503.1i,
4 is amended to read as follows:

5 Section 2-503.1i A. The Oklahoma State Bureau of ~~Narcotics and~~
6 ~~Dangerous Drugs Control~~ Investigation shall have authority to
7 intercept, seize and forfeit any funds or equipment in violation of
8 any provision of the Drug Money Laundering and Wire Transmitter Act
9 or in violation of Section 2-503.1 of this title.

10 B. A warrant for the seizure of property pursuant to Section
11 1222 of Title 22 of the Oklahoma Statutes may be issued by a
12 district judge upon finding of probable cause for funds believed to
13 be used or intended for any violation of the Uniform Controlled
14 Dangerous Substances Act to any licensee under the Oklahoma
15 Financial Transaction Reporting Act.

16 C. The State Banking Commissioner or designee upon receipt of
17 an affidavit of probable cause from an agent of the Bureau, may
18 issue an emergency notice requiring a temporary freeze on an account
19 to any financial institution or money services business under its
20 jurisdiction. Such freeze shall halt all transactions in the
21 account. During the fifteen-day freeze, an account holder may file
22 an emergency appeal to the district court. The district court shall
23 schedule a hearing on the emergency appeal within three (3) judicial
24 days of the request. The provisions of Section 2201 et seq. of

1 Title 6 of the Oklahoma Statutes shall not apply to this section.

2 This freeze shall not exceed fifteen (15) days and shall

3 automatically expire unless:

4 1. A subsequent seizure warrant is issued by a district judge;

5 or

6 2. A notice of forfeiture is filed on the contents of the

7 account pursuant to Section 2-503 of this title.

8 D. No financial institution shall have liability to an account

9 holder for acting pursuant to this section.

10 SECTION 47. AMENDATORY 63 O.S. 2011, Section 2-503.1j,

11 is amended to read as follows:

12 Section 2-503.1j A. Any licensee of a money transmission,

13 transmitter or wire transmitter business pursuant to the Oklahoma

14 Financial Transaction Reporting Act and their delegates shall

15 collect a fee of Five Dollars (\$5.00) for each transaction not in

16 excess of Five Hundred Dollars (\$500.00) and in addition to such fee

17 an amount equal to one percent (1%) of the amount in excess of Five

18 Hundred Dollars (\$500.00).

19 B. The fee prescribed by subsection A of this section shall be

20 remitted quarterly to the Oklahoma Tax Commission on such forms as

21 the Commission, with the assistance of the Oklahoma State Bureau of

22 ~~Narcotics and Dangerous Drugs Control~~ Investigation, may prescribe

23 for such purpose. All required forms and remittances shall be filed

24

1 with the Tax Commission not later than the fifteenth day of the
2 month following the close of each calendar quarter.

3 C. The Oklahoma Tax Commission shall apportion all revenues
4 derived from the fee to the Drug Money Laundering and Wire
5 Transmitter Revolving Fund.

6 D. Every licensee and their delegates shall post a notice on a
7 form prescribed by the Director of the Oklahoma State Bureau of
8 ~~Narcotics and Dangerous Drugs Control~~ Investigation that notifies
9 customers that upon filing an individual income tax return with
10 either a valid social security number or a valid taxpayer
11 identification number the customer shall be entitled to an income
12 tax credit equal to the amount of the fee paid by the customer for
13 the transaction.

14 E. The Oklahoma Tax Commission shall be afforded all provisions
15 currently under law to enforce the provisions of subsection B of
16 this section. If a licensee fails to file reports or fails to remit
17 the fee authorized by subsection B of this section, the Oklahoma Tax
18 Commission shall have the authority pursuant to Section 212 of Title
19 68 of the Oklahoma Statutes to suspend the license of the licensee
20 and its delegates. A notification of the suspension shall also be
21 sent to the State Banking Commissioner and the Director of the
22 Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~
23 Investigation. The licensee and its delegates may not reapply for a
24

1 license until all required reports have been filed and all required
2 fee amounts have been remitted.

3 F. Upon request from the Oklahoma Tax Commission, the State
4 Banking Commissioner may make a claim against the surety bond of the
5 licensee on behalf of the State of Oklahoma.

6 G. The Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs~~
7 ~~Control~~ Investigation and its attorneys may assist the Oklahoma Tax
8 Commission in conducting audits and the prosecution ~~and/or~~ or
9 seeking of legal remedies to ensure compliance with this act.

10 SECTION 48. AMENDATORY 63 O.S. 2011, Section 2-505, as
11 amended by Section 1, Chapter 25, O.S.L. 2017 (63 O.S. Supp. 2017,
12 Section 2-505), is amended to read as follows:

13 Section 2-505. A. All controlled substances in Schedule I of
14 Section 2-204 of this title and all controlled substances in
15 Schedules II, III, IV, and V that are not in properly labeled
16 containers in accordance with this act that are possessed,
17 transferred, sold, or offered for sale in violation of this act are
18 deemed contraband and shall be seized and summarily forfeited.

19 B. All hazardous materials and all property contaminated with
20 hazardous materials described in paragraph 2 of subsection A of
21 Section 2-503 of this title, used or intended to be used by persons
22 to unlawfully manufacture or attempt to manufacture any controlled
23 dangerous substance, shall be summarily forfeited to the state and
24

1 submitted to the Oklahoma State Bureau of Investigation for prompt
2 destruction in accordance with state and federal laws.

3 C. Species of plants from which controlled substances in
4 Schedules I or II of the Uniform Controlled Dangerous Substances Act
5 may be derived which have been planted or cultivated in violation of
6 the Uniform Controlled Dangerous Substances Act, or of which the
7 owners or cultivators are unknown, or which are wild growths, may be
8 seized by peace officers, summarily forfeited and, in lieu of the
9 eradication procedures contained in Section 2-509 of this title,
10 promptly cut and burned where seized or destroyed by applications of
11 herbicides approved for such purpose and registered for use in
12 Oklahoma by the Oklahoma Department of Agriculture, Food, and
13 Forestry. The Oklahoma State Bureau of ~~Narcotics and Dangerous~~
14 ~~Drugs Control~~ Investigation shall ensure that persons spraying the
15 plants are trained in the appropriate use of the herbicide and any
16 safety and protection issues pursuant to the requirements of the
17 Oklahoma Department of Agriculture, Food, and Forestry.

18 SECTION 49. AMENDATORY 63 O.S. 2011, Section 2-506, as
19 last amended by Section 1, Chapter 225, O.S.L. 2016 (63 O.S. Supp.
20 2017, Section 2-506), is amended to read as follows:

21 Section 2-506. A. Any peace officer of this state shall seize
22 the following property:

23 1. Any property described in subsection A of Section 2-503 of
24 this title. Such property shall be held as evidence until a

1 forfeiture has been declared or release ordered, except for property
2 described in paragraphs 1, 2 and 3 of subsection A of Section 2-503
3 of this title, or in the case of money, coins, and currency,
4 deposited as provided in subsection E of Section 2-503 of this
5 title; provided, any money, coins and currency taken or detained
6 pursuant to this section may be deposited in an interest-bearing
7 account by or at the direction of the district attorney in the
8 office of the county treasurer if the district attorney determines
9 the currency is not to be held as evidence. All interest earned on
10 such monies shall be returned to the claimant or forfeited with the
11 money, coins and currency which was taken or detained as provided by
12 law;

13 2. Any property described in subsection B of Section 2-503 of
14 this title; or

15 3. Any property described in subsection C of Section 2-503 of
16 this title.

17 B. Notice of seizure and intended forfeiture proceeding shall
18 be filed in the office of the clerk of the district court for the
19 county wherein such property is seized and shall be given all owners
20 and parties in interest. Notwithstanding any other provision of
21 law, no filing fees shall be assessed by the court clerk for the
22 filing of any forfeiture action.

23 C. Notice shall be given by the agency seeking forfeiture
24 according to one of the following methods:

1 1. Upon each owner or party in interest whose right, title or
2 interest is of record in the Tax Commission, by mailing a copy of
3 the notice by certified mail to the address as given upon the
4 records of the Tax Commission;

5 2. Upon each owner or party in interest whose name and address
6 is known to the attorney in the office of the agency prosecuting the
7 action to recover unpaid fines, by mailing a copy of the notice by
8 registered mail to the last-known address; or

9 3. Upon all other owners or interested parties, whose addresses
10 are unknown, but who are believed to have an interest in the
11 property, by one publication in a newspaper of general circulation
12 in the county where the seizure was made.

13 D. Within forty-five (45) days after the mailing or publication
14 of the notice, the owner of the property and any other party in
15 interest or claimant may file a verified answer and claim to the
16 property described in the notice of seizure and of the intended
17 forfeiture proceeding.

18 E. If at the end of forty-five (45) days after the notice has
19 been mailed or published there is no verified answer on file, the
20 court shall hear evidence upon the fact of the unlawful use and
21 shall order the property forfeited to the state, if such fact is
22 proved. Except as otherwise provided for in Section 2-503 of this
23 title, any such property shall be forfeited to the state and sold
24

1 under judgment of the court pursuant to the provisions of Section 2-
2 508 of this title.

3 F. If a verified answer is filed, the forfeiture proceeding
4 shall be set for hearing.

5 G. At a hearing in a proceeding against property described in
6 paragraphs 3 through 9 of subsection A or subsections B and C of
7 Section 2-503 of this title, the requirements set forth in said
8 paragraph or subsection, respectively, shall be satisfied by the
9 state by a preponderance of the evidence.

10 H. The claimant of any right, title, or interest in the
11 property may prove a lien, mortgage, or conditional sales contract
12 to be a bona fide or innocent ownership interest and that such
13 right, title, or interest was created without any knowledge or
14 reason to believe that the property was being, or was to be, used
15 for the purpose charged.

16 I. In the event of such proof, the court shall order the
17 property released to the bona fide or innocent owner, lien holder,
18 mortgagee or vendor if the amount due him is equal to, or in excess
19 of, the value of the property as of the date of the seizure, it
20 being the intention of this section to forfeit only the right, title
21 or interest of the purchaser.

22 J. If the amount due to such person is less than the value of
23 the property, or if no bona fide claim is established, the property
24 shall be forfeited to the state and sold under judgment of the

1 court, as provided for in Section 2-508 of this title, except as
2 otherwise provided for in Section 2-503 of this title.

3 K. Property taken or detained under this section shall not be
4 repleviable, but shall be deemed to be in the custody of the office
5 of the district attorney of the county wherein the property was
6 seized, subject only to the orders and decrees of the court or the
7 official having jurisdiction thereof; said official shall maintain a
8 true and accurate inventory and record of all such property seized
9 under the provisions of this section. The provisions of this
10 subsection shall not apply to property taken or detained by the
11 ~~Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the~~
12 Department of Public Safety, the Oklahoma State Bureau of
13 Investigation, the Alcoholic Beverage Laws Enforcement Commission,
14 the Department of Corrections or the Office of the Attorney General.
15 Property taken or detained by the ~~Oklahoma State Bureau of Narcotics~~
16 ~~and Dangerous Drugs Control, the~~ Department of Public Safety, the
17 Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws
18 Enforcement Commission, the Department of Corrections or the Office
19 of the Attorney General shall be subject to the provisions of
20 subsections E and F of Section 2-503 of this title.

21 L. The proceeds of the sale of any property not taken or
22 detained by the ~~Oklahoma State Bureau of Narcotics and Dangerous~~
23 ~~Drugs Control, the~~ Department of Public Safety, the Oklahoma State
24 Bureau of Investigation, the Alcoholic Beverage Laws Enforcement

1 Commission, the Department of Corrections or the Office of the
2 Attorney General shall be distributed as follows, in the order
3 indicated:

4 1. To the bona fide or innocent purchaser, conditional sales
5 vendor or mortgagee of the property, if any, up to the amount of his
6 or her interest in the property, when the court declaring the
7 forfeiture orders a distribution to such person;

8 2. To the payment of the actual expenses of preserving the
9 property and legitimate costs related to the civil forfeiture
10 proceedings. For purposes of this paragraph, the term "legitimate
11 costs" shall not include court costs associated with any civil
12 forfeiture proceeding; and

13 3. The balance to a revolving fund in the office of the county
14 treasurer of the county wherein the property was seized, said fund
15 to be used as a revolving fund solely for enforcement of controlled
16 dangerous substances laws, drug abuse prevention and drug abuse
17 education, and maintained by the district attorney in his or her
18 discretion for those purposes with a yearly accounting to the board
19 of county commissioners in whose county the fund is established and
20 to the District Attorneys Council; provided, one hundred percent
21 (100%) of the balance of the proceeds of such sale of property
22 forfeited due to nonpayment of a fine imposed pursuant to the
23 provisions of Section 2-415 of this title shall be apportioned as
24 provided in Section 2-416 of this title. The revolving fund shall

1 be audited by the State Auditor and Inspector at least every two (2)
2 years in the manner provided in Section 171 of Title 19 of the
3 Oklahoma Statutes. Said audit shall include, but not be limited to,
4 a compliance audit. A district attorney may enter into agreements
5 with municipal, tribal, county or state agencies to return to such
6 an agency a percentage of proceeds of the sale of any property
7 seized by the agency and forfeited under the provisions of this
8 section. The District Attorneys Council shall adopt guidelines
9 which ensure that such agencies receive a reasonable percentage of
10 such proceeds, considering the relative contribution of each agency
11 to the drug enforcement and prosecution operations relating to the
12 seizure. In formulating said guidelines, the District Attorneys
13 Council shall examine federal guidelines on asset distribution and
14 use said guidelines as a basis for establishing guidelines for this
15 state. The Attorney General is hereby authorized to mediate
16 disputes between district attorneys and such agencies concerning the
17 application of said guidelines in particular instances. Any agency
18 that receives proceeds from an asset distribution shall maintain a
19 true and accurate record of all such assets.

20 M. Whenever any vehicle, airplane or vessel is forfeited under
21 the Uniform Controlled Dangerous Substances Act, the district court
22 of jurisdiction may order that the vehicle, airplane or vessel
23 seized may be retained by the state, county or city law enforcement
24

1 agency which seized the vehicle, airplane or vessel for its official
2 use.

3 N. If the court finds that the state failed to satisfy the
4 required showing provided for in subsection G of this section, the
5 court shall order the property released to the owner or owners.

6 O. Except as provided for in subsection Q of this section, a
7 bona fide or innocent owner, lien holder, mortgagee or vendor that
8 recovers property pursuant to this section shall not be liable for
9 storage fees.

10 P. Except as provided for in subsection Q of this section,
11 storage fees shall be paid by the agency which is processing the
12 seizure and forfeiture from funds generated by seizure and
13 forfeiture actions.

14 Q. The bona fide or innocent owner, lien holder, mortgagee or
15 vendor shall reclaim subject seized property within thirty (30) days
16 of written notice from the seizing agency. If such person fails to
17 reclaim the property within the thirty-day time period, then storage
18 fees may be assessed against their secured interest.

19 R. 1. At any hearing held relevant to this section, a report
20 of the findings of the laboratory of the Oklahoma State Bureau of
21 Investigation, the medical examiner's report of investigation or
22 autopsy report, or a laboratory report from a forensic laboratory
23 operated by the State of Oklahoma or any political subdivision
24 thereof, which has been made available to the accused by the office

1 of the district attorney or other party to the forfeiture at least
2 five (5) days prior to the hearing, with reference to all or part of
3 the evidence submitted, when certified as correct by the persons
4 making the report shall be received as evidence of the facts and
5 findings stated, if relevant and otherwise admissible in evidence.
6 If such report is deemed relevant by the forfeiture applicant or the
7 respondent, the court shall admit such report without the testimony
8 of the person making the report, unless the court, pursuant to this
9 subsection, orders such person to appear.

10 2. When any alleged controlled dangerous substance has been
11 submitted to the laboratory of the OSBI for analysis, and such
12 analysis shows that the submitted material is a controlled dangerous
13 substance, the distribution of which constitutes a felony under the
14 laws of this state, no portion of such substance shall be released
15 to any other person or laboratory except to the criminal justice
16 agency originally submitting the substance to the OSBI for analysis,
17 absent an order of a district court. The defendant shall
18 additionally be required to submit to the court a procedure for
19 transfer and analysis of the subject material to ensure the
20 integrity of the sample and to prevent the material from being used
21 in any illegal manner.

22 3. The court, upon motion of either party, shall order the
23 attendance of any person preparing a report submitted as evidence in
24 the hearing when it appears there is a substantial likelihood that

1 material evidence not contained in said report may be produced by
2 the testimony of any person having prepared a report. The hearing
3 shall be held and, if sustained, an order issued not less than five
4 (5) days prior to the time when the testimony shall be required.

5 4. If within five (5) days prior to the hearing or during a
6 hearing, a motion is made pursuant to this section requiring a
7 person having prepared a report to testify, the court may hear a
8 report or other evidence but shall continue the hearing until such
9 time notice of the motion and hearing is given to the person making
10 the report, the motion is heard, and, if sustained, the testimony
11 ordered can be given.

12 S. In any forfeiture proceeding under this chapter in which the
13 defendant or claimant prevails, the court may order the plaintiff
14 processing the seizure and forfeiture to pay from funds generated by
15 seizure and forfeiture actions:

16 1. Reasonable attorney fees and other litigation costs
17 reasonably incurred by the defendant or claimant directly related to
18 the claim on which the defendant or claimant prevailed;

19 2. Postjudgment interest; and

20 3. In cases involving currency or other negotiable instruments:

21 a. interest actually paid to the state from the date of
22 seizure or arrest of the property that resulted from
23 the investment of the property in an interest-bearing
24 account or instrument, and

1 b. an imputed amount of interest that such currency,
2 instruments, or proceeds would have earned at the rate
3 applicable to the thirty-day Treasury Bill, for any
4 period during which no interest was paid, not
5 including any period when the property reasonably was
6 in use as evidence in an official proceeding or in
7 conducting scientific tests for the purpose of
8 collecting evidence, commencing fifteen (15) days
9 after the property was seized by a law enforcement
10 agency or was turned over to a law enforcement agency
11 by a federal law enforcement authority.

12 SECTION 50. AMENDATORY 63 O.S. 2011, Section 2-508, as
13 last amended by Section 2, Chapter 284, O.S.L. 2014 (63 O.S. Supp.
14 2017, Section 2-508), is amended to read as follows:

15 Section 2-508. A. Except as otherwise provided, all property
16 described in paragraphs 1 and 2 of subsection A of Section 2-503 of
17 this title which is seized or surrendered pursuant to the provisions
18 of the Uniform Controlled Dangerous Substances Act shall be
19 destroyed. The destruction shall be done by or at the direction of
20 the Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~
21 ~~(OSBND)~~ Investigation, who shall have the discretion prior to
22 destruction to preserve samples of the substance for testing. In
23 any county with a population of four hundred thousand (400,000) or
24 more according to the latest Federal Decennial Census, there shall

1 be a located site, approved by the ~~OSBND~~ Bureau, for the
2 destruction of the property. Any such property submitted to the
3 ~~OSBND~~ Bureau which it deems to be of use for investigative
4 training, educational, or analytical purposes may be retained by the
5 ~~OSBND~~ Bureau in lieu of destruction.

6 B. 1. With respect to controlled dangerous substances seized
7 or surrendered pursuant to the provisions of the Uniform Controlled
8 Dangerous Substances Act, municipal police departments, sheriffs,
9 ~~the Oklahoma Bureau of Narcotics and Dangerous Drugs Control~~
10 ~~Commission~~, the Oklahoma Highway Patrol, and the Oklahoma State
11 Bureau of Investigation shall have the authority to destroy seized
12 controlled dangerous substances when the amount seized in a single
13 incident exceeds ten (10) pounds. The destroying agency shall:

- 14 a. photograph the seized substance with identifying case
15 numbers or other means of identification,
- 16 b. prepare a report describing the seized substance prior
17 to the destruction,
- 18 c. retain at least one (1) pound of the substance
19 randomly selected from the seized substance for the
20 purpose of evidence, and
- 21 d. obtain and retain samples of the substance from enough
22 containers, bales, bricks, or other units of substance
23 seized to establish the presence of a weight of the
24 substance necessary to establish a violation of the

1 Trafficking in Illegal Drugs Act pursuant to
2 subsection C of Section 2-415 of this title, if such a
3 weight is present. If such weight is not present,
4 samples of the substance from each container, bale,
5 brick or other unit of substance seized shall be
6 taken. Each sample taken pursuant to this section
7 shall be large enough for the destroying agency and
8 the defendant or suspect to have an independent test
9 performed on the substance for purposes of
10 identification.

11 2. If a defendant or suspect is known to the destroying agency,
12 the destroying agency shall give at least seven (7) days' written
13 notice to the defendant, suspect or counsel for the defendant or
14 suspect of:

- 15 a. the date, the time, and the place where the
16 photographing will take place and notice of the right
17 to attend the photographing, and
- 18 b. the right to obtain samples of the controlled
19 dangerous substance for independent testing and use as
20 evidence.

21 3. The written notice shall also inform the defendant, suspect
22 or counsel for the defendant or suspect that the destroying agency
23 must be notified in writing within seven (7) days from receipt of
24 the notice of the intent of the suspect or defendant to obtain

1 random samples and make arrangements for the taking of samples. The
2 samples for the defendant or suspect must be taken by a person
3 licensed by the Drug Enforcement Administration. If the defendant
4 or counsel for the defendant fails to notify the destroying agency
5 in writing of an intent to obtain samples and fails to make
6 arrangements for the taking of samples, a sample taken pursuant to
7 subparagraph d of paragraph 1 of this subsection shall be made
8 available upon request of the defendant or suspect.

9 The representative samples, the photographs, the reports, and
10 the records made under this section and properly identified shall be
11 admissible in any court or administrative proceeding for any
12 purposes for which the seized substance itself would have been
13 admissible.

14 C. All other property not otherwise provided for in the Uniform
15 Controlled Dangerous Substances Act which has come into the
16 possession of the ~~Oklahoma State Bureau of Narcotics and Dangerous~~
17 ~~Drugs Control~~, the Department of Public Safety, the Oklahoma State
18 Bureau of Investigation, the Alcoholic Beverage Laws Enforcement
19 Commission, the Department of Corrections, the Office of the
20 Attorney General, or a district attorney may be disposed of by order
21 of the district court when no longer needed in connection with any
22 litigation. If the owner of the property is unknown to the agency
23 or district attorney, the agency or district attorney shall hold the
24 property for at least six (6) months prior to filing a petition for

1 disposal with the district court except for laboratory equipment
2 which may be forfeited when no longer needed in connection with
3 litigation, unless the property is perishable. The Director or
4 Commissioner of the agency, the Attorney General, or district
5 attorney shall file a petition in the district court of Oklahoma
6 County or in the case of a district attorney, the petition shall be
7 filed in a county within the jurisdiction of the district attorney
8 requesting the authority to:

9 1. Conduct a sale of the property at a public auction or use an
10 Internet auction, which may include online bidding; or

11 2. Convert title of the property to the ~~Oklahoma State Bureau~~
12 ~~of Narcotics and Dangerous Drugs Control,~~ the Department of Public
13 Safety, the Oklahoma State Bureau of Investigation, the Alcoholic
14 Beverage Laws Enforcement Commission, the Department of Corrections,
15 the Office of the Attorney General, or to the district attorney's
16 office for the purposes provided for in subsection I, ~~J~~ or K ~~or L~~
17 of this section.

18 The Director, Commissioner, Attorney General or district
19 attorney shall attach to the petition:

- 20 a. a list describing the property, including all
21 identifying numbers and marks, if any,
- 22 b. the date the property came into the possession of the
23 agency or district attorney, and
- 24 c. the name and address of the owner, if known.

1 For any item having an apparent value in excess of One Hundred
2 Dollars (\$100.00), but less than Five Hundred Dollars (\$500.00), the
3 notice of the hearing of the petition for the sale of the property,
4 except laboratory equipment used in the processing, manufacturing or
5 compounding of controlled dangerous substances in violation of the
6 provisions of the Uniform Controlled Dangerous Substances Act, shall
7 be given to every known owner, as set forth in the petition, by
8 first-class mail to the last-known address of the owner at least ten
9 (10) days prior to the date of the hearing. An affidavit of notice
10 being sent shall be filed with the court by a representative of the
11 agency, the Director or Commissioner of the agency, the Attorney
12 General or district attorney. For items in excess of Five Hundred
13 Dollars (\$500.00), a notice of the hearing of the petition for the
14 sale of said property shall be delivered to every known owner as set
15 forth in the petition by certified mail. Notice of a hearing on a
16 petition for forfeiture or sale of laboratory equipment used in the
17 processing, manufacturing or compounding of controlled dangerous
18 substances in violation of the Uniform Controlled Dangerous
19 Substances Act shall not be required.

20 The notice shall contain a brief description of the property,
21 and the location and date of the hearing. In addition, notice of
22 the hearing shall be posted in three public places in the county,
23 one such place being the county courthouse at the regular place
24 assigned for the posting of legal notices. At the hearing, if no

1 owner appears and establishes ownership of the property, the court
2 may enter an order authorizing the Director, Commissioner, Attorney
3 General, or district attorney to donate the property pursuant to
4 subsection I, ~~J~~ or K ~~or~~ ~~L~~ of this section, to sell the property at
5 a public auction, including an Internet auction, which may include
6 online bidding, to the highest bidder, or to convert title of the
7 property to the ~~Oklahoma State Bureau of Narcotics and Dangerous~~
8 ~~Drugs Control~~, the Department of Public Safety, the Oklahoma State
9 Bureau of Investigation, the Alcoholic Beverage Laws Enforcement
10 Commission, the Department of Corrections, or the Office of the
11 Attorney General for the purposes provided for in subsection I, ~~J~~
12 or K ~~or~~ ~~L~~ of this section after at least ten (10) days of notice has
13 been given by publication in one issue of a legal newspaper of the
14 county. If the property is offered for sale at public auction,
15 including an Internet auction, and no bid is received that exceeds
16 fifty percent (50%) of the value of the property, such value to be
17 announced prior to the sale, the Director, Commissioner, Attorney
18 General, or district attorney may refuse to sell the item pursuant
19 to any bid received. The Director, Commissioner, Attorney General,
20 or district attorney shall make a return of the sale and, when
21 confirmed by the court, the order confirming the sale shall vest in
22 the purchaser title to the property so purchased.

23 D. The money received from the sale of property by the Oklahoma
24 State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation

1 shall be used for general drug enforcement purposes. These funds
2 shall be transferred to the ~~Bureau of~~ Narcotics Revolving Fund
3 established pursuant to Section 2-107 of this title or in the case
4 of a district attorney, the revolving fund provided for in paragraph
5 3 of subsection L of Section 2-506 of this title.

6 E. At the request of the Department of Public Safety, the
7 district attorney or a designee of the district attorney may conduct
8 any forfeiture proceedings as described in Section 2-503 of this
9 title on any property subject to forfeiture as described in
10 subsection A, B or C of Section 2-503 of this title. The money
11 received from the sale of property by the Department of Public
12 Safety shall be deposited in the Department of Public Safety
13 Restricted Revolving Fund and shall be expended for law enforcement
14 purposes.

15 F. The money received from the sale of property by the
16 Alcoholic Beverage Laws Enforcement Commission shall be deposited in
17 the General Revenue Fund of the state.

18 ~~G. The money received from the sale of property from the~~
19 ~~Oklahoma State Bureau of Investigation shall be deposited in the~~
20 ~~OSBI Revolving Fund and shall be expended for law enforcement~~
21 ~~purposes.~~

22 H. The Director of the Department of Corrections shall make a
23 return of the sale and when confirmed by the court, the order
24 confirming the sale shall vest in the purchaser title to the

1 property so purchased. Twenty-five percent (25%) of the money
2 received from the sale shall be disbursed to a revolving fund in the
3 office of the county treasurer of the county wherein the property
4 was seized, said fund to be used as a revolving fund solely for
5 enforcement of controlled dangerous substances laws, drug abuse
6 prevention and drug abuse education. The remaining seventy-five
7 percent (75%) shall be deposited in the Department of Corrections
8 Revolving Fund to be expended for equipment for probation and parole
9 officers and correctional officers.

10 ~~F.~~ H. The money received from the sale of property from the
11 Office of the Attorney General shall be deposited in the Attorney
12 General Law Enforcement Revolving Fund and shall be expended for law
13 enforcement purposes. The Office of the Attorney General may enter
14 into agreements with municipal, county or state agencies to return
15 to such an agency a percentage of proceeds of the sale of any
16 property seized by the agency and forfeited under the provisions of
17 this section.

18 ~~J.~~ I. Any property, including but not limited to uncontaminated
19 laboratory equipment used in the processing, manufacturing or
20 compounding of controlled dangerous substances in violation of the
21 provisions of the Uniform Controlled Dangerous Substances Act, upon
22 a court order, may be donated for classroom or laboratory use by the
23 Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~
24 Investigation, Department of Public Safety, district attorney, the

1 Alcoholic Beverage Laws Enforcement Commission, the Department of
2 Corrections, or the Office of the Attorney General to any public
3 secondary school or technology center school in this state or any
4 institution of higher education within The Oklahoma State System of
5 Higher Education.

6 ~~K.~~ J. Any vehicle or firearm which has come into the possession
7 and title vested in the ~~Oklahoma State Bureau of Narcotics and~~
8 ~~Dangerous Drugs Control,~~ the Department of Public Safety, the
9 Oklahoma State Bureau of Investigation, the Office of the Attorney
10 General or a district attorney, may be transferred, donated or
11 offered for lease to any sheriff's office, tribal law enforcement
12 agency, campus police department pursuant to the provisions of the
13 Oklahoma Campus Security Act, or police department in this state on
14 an annual basis to assist with the enforcement of the provisions of
15 the Uniform Controlled Dangerous Substances Act. Each agency shall
16 promulgate rules, regulations and procedures for leasing vehicles
17 and firearms. No fully automatic weapons will be subject to the
18 leasing agreement. All firearms leased may be utilized only by
19 C.L.E.E.T.-certified officers who have received training in the type
20 and class of weapon leased. Every lessee shall be required to
21 submit an annual report to the leasing agency stating the condition
22 of all leased property. A lease agreement may be renewed annually
23 at the option of the leasing agency. Upon termination of a lease
24 agreement, the property shall be returned to the leasing agency for

1 sale or other disposition. All funds derived from lease agreements
2 or other disposition of property no longer useful to law enforcement
3 shall be deposited in the agency's revolving fund, or in the case of
4 the Department of Public Safety, the Department of Public Safety
5 Restricted Revolving Fund, and shall be expended for law enforcement
6 purposes.

7 ~~E. K.~~ Before disposing of any property pursuant to subsections
8 C through ~~F~~ H of this section, the ~~Oklahoma State Bureau of~~
9 ~~Narcotics and Dangerous Drugs Control,~~ the Department of Public
10 Safety, the Alcoholic Beverage Laws Enforcement Commission, the
11 Oklahoma State Bureau of Investigation, the Department of
12 Corrections, the Office of the Attorney General, or a district
13 attorney may transfer or donate the property to another state
14 agency, tribal law enforcement agency, or school district for use
15 upon request. In addition to the provisions of this section, the
16 Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs Control~~
17 Investigation may transfer or donate property for any purpose
18 pursuant to Section 2-106.2 of this title. The agencies and any
19 district attorney that are parties to any transfer of property
20 pursuant to this subsection shall enter into written agreements to
21 carry out any such transfer of property. Any such agreement may
22 also provide for the granting of title to any property being
23 transferred as the parties deem appropriate. If the transfer of
24 property is to a school district, a written agreement shall be

1 entered into with the superintendent of the school district. No
2 weapons may be transferred to a school district except as provided
3 for in subsection ~~K~~ J of this section.

4 SECTION 51. AMENDATORY 63 O.S. 2011, Section 2-509, as
5 amended by Section 2, Chapter 25, O.S.L. 2017 (63 O.S. Supp. 2017,
6 Section 2-509), is amended to read as follows:

7 Section 2-509. A. All species of plants from which controlled
8 dangerous substances in Schedules I and II may be derived are hereby
9 declared inimical to health and welfare of the public, and the
10 intent of the Legislature is to control and eradicate these species
11 of the plants in the State of Oklahoma.

12 B. It shall be unlawful for any person to cultivate or produce,
13 or to knowingly permit the cultivation, production, or wild growing
14 of any species of such plants, on any lands owned or controlled by
15 such person, and it is hereby declared the duty of every such person
16 to destroy all such plants found growing on lands owned or
17 controlled by the person.

18 C. 1. Whenever any peace officer of the state shall receive
19 information that any species of any such plants has been found
20 growing on any private lands in the State of Oklahoma, the peace
21 officer shall notify the sheriff and county commissioners of the
22 county wherein such plants are found growing. Within five (5) days
23 of receipt of such notice, the county commissioners shall notify the
24 owner or person in possession of such lands that such plants have

1 | been found growing on the said lands and that the same must be
2 | destroyed or eradicated within fifteen (15) days. When the fifteen
3 | (15) days have elapsed, the reporting peace officer shall cause an
4 | investigation to be made of the aforesaid lands, and if any such
5 | plants be found growing thereon, the county commissioners shall
6 | cause the same to be destroyed or eradicated by either cutting and
7 | burning or by applications of herbicides approved for such purpose
8 | and registered for use in Oklahoma by the Oklahoma Department of
9 | Agriculture, Food, and Forestry in accordance with Section 2-505 of
10 | this title.

11 | 2. Whenever any such plants are destroyed or eradicated by
12 | order of the county commissioners as provided herein, the cost of
13 | the same shall, if the work or labor be furnished by the county
14 | commissioners, be taxed against the lands whereon the work was
15 | performed, and shall be a lien upon such land in all manner and
16 | respects as a lien of judgment, if the owner is charged with a
17 | violation of subsection B of this section. If the violation of
18 | subsection B of this section is by a person other than the owner of
19 | the land, without the knowledge of the owner, the costs shall be
20 | paid by the initiating law enforcement agency.

21 | D. Knowingly violating the provisions of subsection B or
22 | subsection H of this section is hereby declared, as to the owner, or
23 | person in possession of such lands, to be a felony and upon
24 | conviction punishable as such by a fine not to exceed Fifty Thousand

1 Dollars (\$50,000.00) and imprisonment in the custody of the
2 Department of Corrections for not less than two (2) years nor more
3 than life. The fine provided for in this subsection shall be in
4 addition to other punishments provided by law and shall not be in
5 lieu of other punishment. Any person convicted of a second or
6 subsequent violation of subsection B or subsection H of this section
7 is, upon conviction, punishable by a term of imprisonment twice that
8 otherwise authorized and by twice the fine otherwise authorized.
9 Any sentence shall not be subject to statutory provisions for
10 suspended sentences, deferred sentences or probation, except when
11 the conviction is for a first offense.

12 E. It shall be the duty of any peace officer of the State of
13 Oklahoma who receives information of such plants growing in the
14 State of Oklahoma, to make notice, in writing, to the Oklahoma State
15 Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation and
16 the future destruction or eradication of the annual growth of such
17 plants shall be supervised by the Oklahoma State Bureau of ~~Narcotics~~
18 ~~and Dangerous Drugs Control~~ Investigation. Any destruction or
19 eradication of the annual growth of such plants supervised by the
20 Bureau shall be by cutting and burning the same or by destruction
21 and eradication through applications of herbicides approved for such
22 purpose and registered for use in Oklahoma by the Oklahoma
23 Department of Agriculture, Food, and Forestry.

24

1 F. Any application of herbicides authorized by this section
2 shall be made pursuant to the provisions of Section 2-505 of this
3 title.

4 G. In lieu of the eradication procedures provided for in
5 subsections B and C of this section, all species of plants from
6 which controlled dangerous substances in Schedules I and II of the
7 Uniform Controlled Dangerous Substances Act may be derived, may be
8 disposed of pursuant to the provisions of subsection C of Section 2-
9 505 of this title.

10 H. Except as authorized by the Uniform Controlled Dangerous
11 Substances Act, it shall be unlawful for any person to manufacture
12 or attempt to manufacture any controlled dangerous substance by
13 cooking, burning, or extracting and converting or attempting to
14 extract and convert marihuana or marihuana oil into hashish, hashish
15 oil or hashish powder.

16 SECTION 52. AMENDATORY 63 O.S. 2011, Section 2-701, as
17 last amended by Section 7, Chapter 181, O.S.L. 2013 (63 O.S. Supp.
18 2017, Section 2-701), is amended to read as follows:

19 Section 2-701. A. There is hereby created within the Oklahoma
20 State Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation
21 a registry of persons who, after November 1, 2010, have been
22 convicted, whether upon a verdict or plea of guilty or upon a
23 verdict or plea of nolo contendere, or received a suspended sentence
24 or any deferred or probationary term, or are currently serving a

1 sentence or any form of probation or parole for a crime or attempt
2 to commit a crime including, but not limited to, unlawful
3 possession, conspiring, endeavoring, manufacturing, distribution or
4 trafficking of a precursor or methamphetamines under the provisions
5 of Section 2-322, 2-332, 2-401, 2-402, 2-408 or 2-415 of this title,
6 or any crime including, but not limited to, crimes involving the
7 possession, distribution, manufacturing or trafficking of
8 methamphetamines or illegal amounts of or uses of pseudoephedrine in
9 any federal court, Indian tribal court, or any court of another
10 state if the person is a resident of the State of Oklahoma or seeks
11 to remain in the State of Oklahoma in excess of ten (10) days.

12 B. It shall be unlawful for any person who knows that he or she
13 is subject to the registry created in subsection A of this section
14 to purchase, possess or have control of any Schedule V compound,
15 mixture, or preparation containing any detectable quantity of
16 pseudoephedrine, its salts or optical isomers, or salts of optical
17 isomers. A prescription for pseudoephedrine shall not provide an
18 exemption for any person to this law. Any person convicted of
19 violating the provisions of this subsection shall be guilty of a
20 felony, punishable by imprisonment in the custody of the Department
21 of Corrections for not less than two (2) years and not more than ten
22 (10) years, or by a fine of not more than Five Thousand Dollars
23 (\$5,000.00), or by both such fine and imprisonment.

1 C. The registry created in subsection A of this section shall
2 be maintained by the Bureau. The registry shall be made available
3 for registrants who sell or dispense pseudoephedrine-related
4 products and to law enforcement agencies for law enforcement
5 purposes through the electronic methamphetamine precursor tracking
6 service. The electronic methamphetamine precursor tracking service
7 shall generate a stop-sale alert on any sale of pseudoephedrine to
8 any individual listed on the methamphetamine offender registry in
9 real time.

10 D. The registry shall consist of the following information:

- 11 1. Name and address of the person;
- 12 2. Date of birth of the person;
- 13 3. The offense or offenses which made the person eligible for
14 inclusion on the registry;
- 15 4. The date of conviction or the date that a plea of guilty or
16 nolo contendere was accepted by the court for any violation of an
17 offense provided for in subsection A of this section;
- 18 5. The county where the offense or offenses occurred; and
- 19 6. Such other identifying data as the Bureau determines is
20 necessary to properly identify the person.

21 E. Beginning November 1, 2010, all district court clerks shall
22 forward a copy of the judgment and sentence or other applicable
23 information relating to the disposition of the criminal case and
24 date of birth of all persons who are subject to the provisions of

1 the Oklahoma Methamphetamine Offender Registry Act for a violation
2 of the offenses described in subsection A of this section to the
3 Bureau. The information shall be sent in an electronic format in a
4 manner prescribed by the Bureau within ten (10) days of the date of
5 final disposition of the case. Any person subject to the registry
6 pursuant to subsection A of this section, having received a deferred
7 sentence or conviction in a federal court, Indian tribal court, or
8 any court of another state, shall be required to register and submit
9 a methamphetamine offender registration form in a format prescribed
10 by the Bureau within ten (10) days of entering the State of Oklahoma
11 or if incarcerated in a federal institution within the boundaries of
12 Oklahoma, within ten (10) days of release from the institution.
13 Knowingly failing to submit the form required by this subsection
14 shall constitute a misdemeanor.

15 F. Upon receipt of the information provided by the district
16 court clerk, the Bureau shall transmit in an electronic format to
17 the electronic methamphetamine precursor tracking service at least
18 every seven (7) days the name of any person placed on the
19 methamphetamine offender registry as provided in this section. The
20 information transmitted to the electronic tracking service shall
21 include the first, middle, and last name of the person, and the
22 address and the date of birth of the person. The electronic
23 methamphetamine precursor tracking service shall be designed to
24 generate a stop-sale alert for any person who is on the

1 methamphetamine offender registry and whose name, address and date
2 of birth have been transmitted by the Bureau to the electronic
3 tracking service.

4 G. The Bureau shall remove from the methamphetamine offender
5 registry the name and other identifying information of a person who
6 has been convicted of a violation of any of the offenses described
7 in subsection A of this section ten (10) years after the date of the
8 most recent judgment and sentence. Any person having received a
9 deferred sentence that expires prior to the ten-year time limitation
10 may apply to the Bureau to be removed from the registry upon the
11 completion of the deferred sentence by providing to the Bureau a
12 certified copy of the dismissal of the case by certified mail. The
13 Bureau may remove the person from the methamphetamine offender
14 registry upon expiration of the deferred sentence. The Bureau shall
15 also be required to notify the provider of the electronic
16 methamphetamine precursor tracking service when a person is removed
17 from the methamphetamine offender registry. Upon notification from
18 the Bureau, the provider of the electronic tracking service shall
19 remove the name of the person from the electronic methamphetamine
20 precursor tracking service and the person shall thereafter be
21 permitted to purchase pseudoephedrine-related products.

22 H. It shall be a violation for any person to assist another,
23 with knowledge that the person is subject to the registry, in the
24 purchase of any pseudoephedrine products. Any person convicted of

1 violating the provisions of this subsection shall, for a first
2 offense, be guilty of a misdemeanor, punishable by incarceration in
3 the county jail for not more than one (1) year, or by a fine of not
4 more than One Thousand Dollars (\$1,000.00), or by both such fine and
5 imprisonment. Any second or subsequent conviction for a violation
6 of this subsection shall be a felony, punishable by incarceration in
7 the custody of the Department of Corrections for not more than two
8 (2) years, or by a fine of not less than Two Thousand Five Hundred
9 Dollars (\$2,500.00) or by both such fine and imprisonment.

10 I. On or prior to November 1, 2011, the Oklahoma State Bureau
11 of ~~Narcotics and Dangerous Drugs Control~~ Investigation shall
12 maintain a methamphetamine offender registry website available for
13 viewing by the public.

14 J. For the purposes of this section, knowledge that a person
15 was subject to the methamphetamine offender registry may be proven
16 through court testimony or any other public notice or publicly
17 available record including, but not limited to, court records
18 maintained by the Oklahoma Supreme Court Network and the Oklahoma
19 Court Information System.

20 K. The Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs~~
21 ~~Control~~ Investigation shall take necessary actions through the
22 promulgation of rules and cooperation with pharmacies and the courts
23 to ensure that notice of the provisions of this section is provided
24

1 to those persons subject to the methamphetamine offender registry as
2 listed in subsection A of this section.

3 SECTION 53. AMENDATORY Section 4, Chapter 203, O.S.L.
4 2015 (63 O.S. Supp. 2017, Section 2-802), is amended to read as
5 follows:

6 Section 2-802. A. A statewide investigational new drug
7 application may be established in this state, if approved by the
8 United States Food and Drug Administration, to conduct clinical
9 trials using cannabidiol on qualifying patients with severe forms of
10 epilepsy.

11 B. Any physician licensed by the State Board of Medical
12 Licensure and Supervision or the State Board of Osteopathic
13 Examiners, practicing in this state, and treating patients with
14 severe forms of epilepsy may serve as the principal investigator for
15 such clinical trials if such physician:

16 1. Applies to and is approved by the United States Food and
17 Drug Administration as the principal investigator in a statewide
18 investigational new drug application;

19 2. Receives a license from the United States Drug Enforcement
20 Administration; and

21 3. Receives a registration from the Oklahoma State Bureau of
22 ~~Narcotics and Dangerous Drugs Control~~ Investigation.

23 C. Such physician, acting as principal investigator, may
24 include subinvestigators who are also board certified, practice in

1 an academic medical center in this state, and treat patients with
2 severe forms of epilepsy. Such subinvestigators shall be required
3 to comply with the licensing requirement provided in paragraphs 2
4 and 3 of subsection B of this section.

5 D. The principal investigator and all subinvestigators shall
6 adhere to the rules and regulations established by the relevant
7 institutional review board for each participating academic medical
8 center and by the United States Food and Drug Administration, the
9 United States Drug Enforcement Administration, the Oklahoma State
10 Bureau of ~~Narcotics and Dangerous Drugs Control~~ Investigation, and
11 the National Institute on Drug Abuse.

12 E. Nothing in this section shall be construed to prohibit a
13 physician licensed in Oklahoma from applying for Investigational New
14 Drug authorization from the United States Food and Drug
15 Administration.

16 F. The Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs~~
17 ~~Control~~ Investigation shall have the authority to inspect and test
18 samples of cannabidiol used in this state pursuant to the provisions
19 of this act.

20 SECTION 54. AMENDATORY Section 7, Chapter 203, O.S.L.
21 2015 (63 O.S. Supp. 2017, Section 2-805), is amended to read as
22 follows:

23 Section 2-805. A. The State Commissioner of Health shall have
24 the authority to approve physicians conducting clinical trials

1 performed pursuant to the provisions of this act. In the event of a
2 substantial violation of this act, the Commissioner shall provide
3 written notice to the Oklahoma State Bureau of ~~Narcotics and~~
4 ~~Dangerous Drugs Control~~ Investigation and the Governor. The
5 Governor, upon receipt of a notice from the Commissioner, shall have
6 the authority to terminate the operations of a clinical trial found
7 to be in violation of any provision of this act.

8 B. The clinical trials and related research authorized by this
9 act shall adhere to the highest standards of academic research
10 including, but not limited to, peer review of research conducted
11 pursuant to this act.

12 C. Clinical trials and related research authorized by this act
13 shall conclude no later than December 31, 2017. Nothing in this act
14 shall be construed as to permit the continuation of clinical trials
15 after December 31, 2017, without approval by a concurrent resolution
16 approved by the Legislature expressing approval of such
17 continuation.

18 D. The State Commissioner of Health shall submit a report to
19 the Chair and Vice Chair of the Senate Health and Human Services
20 Committee, the Chair and Vice Chair of the House Alcohol, Tobacco
21 and Dangerous Drugs Committee, and the Chair and Vice Chair of the
22 House Public Health Committee on or before December 31, 2017. Such
23 report shall include a summary of findings from clinical trials
24 authorized by this act. The Commissioner shall, upon request by the

1 Chair and Vice Chair of the Committees specified in this subsection,
2 make available any data, excluding individual health records,
3 relating to clinical trials authorized by this act.

4 E. The Oklahoma State Bureau of ~~Narcotics and Dangerous Drugs~~
5 ~~Control~~ Investigation, the State Board of Health, and the Oklahoma
6 State Regents for Higher Education shall promulgate rules to
7 implement the provisions of this act.

8 SECTION 55. REPEALER 63 O.S. 2011, Section 2-104.1, is
9 hereby repealed.

10 SECTION 56. This act shall become effective November 1, 2018.

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January 16, 2018

Representative Kevin McDugle
Room 242

Re: RBH No. 9525

RBH No. 9525 modifies the definition of member in the Oklahoma Law Enforcement Retirement System to reflect the consolidation Oklahoma State Bureau of Narcotics and Dangerous Drugs Control and Oklahoma State Bureau of Investigation.

RBH No. 9525 is a non fiscal bill as defined by the Oklahoma Pension Legislation Actuarial Analysis Act because there was no benefit increase contained in this bill.

I am a member of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

Thomas E. Cummins

Thomas E. Cummins, MAAA