

1 **SENATE FLOOR VERSION**

2 February 12, 2020

3 **AS AMENDED**

4 SENATE BILL NO. 1409

5 By: Thompson

6 [**fin**es and fees - Justice Reform Revolving Fund -
7 **sentencing powers of the Court - penalties related to**
8 **all-terrain vehicles - penalty for failure to**
9 **register - prohibitions at state parks - repealers -**
10 **codification - noncodification - effective date]**

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

12 SECTION 1. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 1317 of Title 20, unless there
14 is created a duplication in numbering, reads as follows:

15 There is hereby created in the State Treasury a revolving fund
16 to be designated the "Justice Reform Revolving Fund". The fund
17 shall be a continuing fund, not subject to fiscal year limitations.
18 This fund shall be subject to legislative appropriation and shall
19 consist of all monies transferred pursuant to Section 2 of this act
20 and other revenues as may be provided by law.

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

23 On the effective date of this act, any unencumbered funds
24 remaining in the Boating Safety Education Fund, the Motorcycle

1 Safety and Education Program Revolving Fund and the School
2 Investigative Audit Revolving Fund shall be transferred to the
3 credit of the Justice Reform Revolving Fund, as created in Section 1
4 of this act. Any unexpended funds remaining in the Boating Safety
5 Education Fund, the Motorcycle Safety and Education Program
6 Revolving Fund and the School Investigative Audit Revolving Fund
7 after November 1, 2020, shall be transferred to the credit of the
8 Justice Reform Revolving Fund, as created in Section 1 of this act.

9 SECTION 3. AMENDATORY 22 O.S. 2011, Section 991a, as
10 last amended by Section 10, Chapter 304, O.S.L. 2018 (22 O.S. Supp.
11 2019, Section 991a), is amended to read as follows:

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

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

20 a. to provide restitution to the victim as provided by
21 Section 991f et seq. of this title or according to a
22 schedule of payments established by the sentencing
23 court, together with interest upon any pecuniary sum
24 at the rate of twelve percent (12%) per annum, if the

1 defendant agrees to pay such restitution or, in the
2 opinion of the court, if the defendant is able to pay
3 such restitution without imposing manifest hardship on
4 the defendant or the immediate family and if the
5 extent of the damage to the victim is determinable
6 with reasonable certainty,

7 b. to reimburse any state agency for amounts paid by the
8 state agency for hospital and medical expenses
9 incurred by the victim or victims, as a result of the
10 criminal act for which such person was convicted,
11 which reimbursement shall be made directly to the
12 state agency, with interest accruing thereon at the
13 rate of twelve percent (12%) per annum,

14 c. to engage in a term of community service without
15 compensation, according to a schedule consistent with
16 the employment and family responsibilities of the
17 person convicted,

18 d. to pay a reasonable sum into any trust fund,
19 established pursuant to the provisions of Sections 176
20 through 180.4 of Title 60 of the Oklahoma Statutes,
21 and which provides restitution payments by convicted
22 defendants to victims of crimes committed within this
23 state wherein such victim has incurred a financial
24 loss,

- 1 e. to confinement in the county jail for a period not to
2 exceed six (6) months,
- 3 f. to confinement as provided by law together with a term
4 of post-imprisonment community supervision for not
5 less than three (3) years of the total term allowed by
6 law for imprisonment, with or without restitution;
7 provided, however, the authority of this provision is
8 limited to Section 843.5 of Title 21 of the Oklahoma
9 Statutes when the offense involved sexual abuse or
10 sexual exploitation; Sections 681, 741 and 843.1 of
11 Title 21 of the Oklahoma Statutes when the offense
12 involved sexual abuse or sexual exploitation; and
13 Sections 865 et seq., 885, 886, 888, 891, 1021,
14 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and
15 1123 of Title 21 of the Oklahoma Statutes,
- 16 g. to repay the reward or part of the reward paid by a
17 local certified crime stoppers program and the
18 Oklahoma Reward System. In determining whether the
19 defendant shall repay the reward or part of the
20 reward, the court shall consider the ability of the
21 defendant to make the payment, the financial hardship
22 on the defendant to make the required payment, and the
23 importance of the information to the prosecution of
24 the defendant as provided by the arresting officer or

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

15 h. to reimburse the Oklahoma State Bureau of
16 Investigation for costs incurred by that agency during
17 its investigation of the crime for which the defendant
18 pleaded guilty, nolo contendere or was convicted,
19 including compensation for laboratory, technical, or
20 investigation services performed by the Bureau if, in
21 the opinion of the court, the defendant is able to pay
22 without imposing manifest hardship on the defendant,
23 and if the costs incurred by the Bureau during the
24

1 investigation of the defendant's case may be
2 determined with reasonable certainty,

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

17 ~~j.~~ to pay a reasonable sum to the Crime Victims
18 Compensation Board, created by Section 142.2 et seq.
19 of Title 21 of the Oklahoma Statutes, for the benefit
20 of crime victims,

21 ~~k.~~

22 j. to reimburse the court fund for amounts paid to court-
23 appointed attorneys for representing the defendant in
24 the case in which the person is being sentenced,

1 ~~l.~~

2 k. to participate in an assessment and evaluation by an
3 assessment agency or assessment personnel certified by
4 the Department of Mental Health and Substance Abuse
5 Services pursuant to Section 3-460 of Title 43A of the
6 Oklahoma Statutes and, as determined by the
7 assessment, participate in an alcohol and drug
8 substance abuse course or treatment program or both,
9 pursuant to Sections 3-452 and 3-453 of Title 43A of
10 the Oklahoma Statutes, or as ordered by the court,

11 ~~m.~~

12 l. to be placed in a victims impact panel program, as
13 defined in subsection H of this section, or
14 victim/offender reconciliation program and payment of
15 a fee to the program of not less than Fifteen Dollars
16 (\$15.00) nor more than Sixty Dollars (\$60.00) as set
17 by the governing authority of the program to offset
18 the cost of participation by the defendant. Provided,
19 each victim/offender reconciliation program shall be
20 required to obtain a written consent form voluntarily
21 signed by the victim and defendant that specifies the
22 methods to be used to resolve the issues, the
23 obligations and rights of each person, and the
24 confidentiality of the proceedings. Volunteer

1 mediators and employees of a victim/offender
2 reconciliation program shall be immune from liability
3 and have rights of confidentiality as provided in
4 Section 1805 of Title 12 of the Oklahoma Statutes,

5 ~~n.~~

6 m. to install, at the expense of the defendant, an
7 ignition interlock device approved by the Board of
8 Tests for Alcohol and Drug Influence. The device
9 shall be installed upon every motor vehicle operated
10 by the defendant, and the court shall require that a
11 notation of this restriction be affixed to the
12 defendant's driver license. The restriction shall
13 remain on the driver license not exceeding two (2)
14 years to be determined by the court. The restriction
15 may be modified or removed only by order of the court
16 and notice of any modification order shall be given to
17 the Department of Public Safety. Upon the expiration
18 of the period for the restriction, the Department of
19 Public Safety shall remove the restriction without
20 further court order. Failure to comply with the order
21 to install an ignition interlock device or operating
22 any vehicle without a device during the period of
23 restriction shall be a violation of the sentence and
24 may be punished as deemed proper by the sentencing

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

7 ~~e.~~

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

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

3 ~~p.~~

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

22 ~~q.~~

1 p. to submit to periodic testing for alcohol,
2 intoxicating substance, or controlled dangerous
3 substances by a qualified laboratory,

4 ~~r.~~

5 q. to pay a fee, costs for treatment, education,
6 supervision, participation in a program, or any
7 combination thereof as determined by the court, based
8 upon the defendant's ability to pay the fees or costs,

9 ~~s.~~

10 r. to be supervised by a Department of Corrections
11 employee, a private supervision provider, or other
12 person designated by the court,

13 ~~t.~~

14 s. to obtain positive behavior modeling by a trained
15 mentor,

16 ~~u.~~

17 t. to serve a term of confinement in a restrictive
18 housing facility available in the community,

19 ~~v.~~

20 u. to serve a term of confinement in the county jail at
21 night or during weekends pursuant to Section 991a-2 of
22 this title or for work release,

23 ~~w.~~

24

1 v. to obtain employment or participate in employment-
2 related activities,

3 ~~z.~~

4 w. to participate in mandatory day reporting to
5 facilities or persons for services, payments, duties
6 or person-to-person contacts as specified by the
7 court,

8 ~~y.~~

9 x. to pay day fines not to exceed fifty percent (50%) of
10 the net wages earned. For purposes of this paragraph,
11 "day fine" means the offender is ordered to pay an
12 amount calculated as a percentage of net daily wages
13 earned. The day fine shall be paid to the local
14 community sentencing system as reparation to the
15 community. Day fines shall be used to support the
16 local system,

17 ~~z.~~

18 y. to submit to blood or saliva testing as required by
19 subsection I of this section,

20 ~~aa.~~

21 z. to repair or restore property damaged by the
22 defendant's conduct, if the court determines the
23 defendant possesses sufficient skill to repair or
24

1 restore the property and the victim consents to the
2 repairing or restoring of the property,

3 ~~bb.~~

4 aa. to restore damaged property in kind or payment of out-
5 of-pocket expenses to the victim, if the court is able
6 to determine the actual out-of-pocket expenses
7 suffered by the victim,

8 ~~ee.~~

9 bb. to attend a victim-offender reconciliation program if
10 the victim agrees to participate and the offender is
11 deemed appropriate for participation,

12 ~~dd.~~

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

22 ~~ee.~~

23 dd. in the case of a sex offender sentenced after November
24 1, 1989, and required by law to register pursuant to

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

21 ~~ff.~~

22 ee. in addition to other sentencing powers of the court,
23 the court in the case of a defendant being sentenced
24 for a felony conviction for a violation of Section 2-

1 402 of Title 63 of the Oklahoma Statutes which
2 involves marijuana may require the person to
3 participate in a drug court program, if available. If
4 a drug court program is not available, the defendant
5 may be required to participate in a community
6 sanctions program, if available,

7 ~~gg.~~

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

20 Additionally, the court may require the offender to
21 pay restitution and bogus check fees on any other
22 bogus check or checks that have been submitted to the
23 District Attorney Bogus Check Restitution Program, and

24 ~~hh.~~

1 gg. any other provision specifically ordered by the court.

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

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

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

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

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

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

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

1 ~~7.~~ 6. In addition to the other sentencing powers of the court,
2 in the case of a person convicted of operating or being in control
3 of a motor vehicle while the person was under the influence of
4 alcohol, other intoxicating substance, or a combination of alcohol
5 or another intoxicating substance, or convicted of operating a motor
6 vehicle while the ability of the person to operate such vehicle was
7 impaired due to the consumption of alcohol, require such person:

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

17 b. to attend a victims impact panel program, as defined
18 in subsection H of this section, and to pay a fee of
19 not more than Sixty Dollars (\$60.00) as set by the
20 governing authority of the program and approved by the
21 court, to the program to offset the cost of
22 participation by the defendant, if in the opinion of
23 the court the defendant has the ability to pay such
24 fee,

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

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

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

13 ~~8.~~ 7. In addition to the other sentencing powers of the court,
14 in the case of a person convicted of prostitution pursuant to
15 Section 1029 of Title 21 of the Oklahoma Statutes, require such
16 person to receive counseling for the behavior which may have caused
17 such person to engage in prostitution activities. Such person may
18 be required to receive counseling in areas including but not limited
19 to alcohol and substance abuse, sexual behavior problems, or
20 domestic abuse or child abuse problems;

21 ~~9.~~ 8. In addition to the other sentencing powers of the court,
22 in the case of a person convicted of any crime related to domestic
23 abuse, as defined in Section 60.1 of this title, the court may
24 require the defendant to undergo the treatment or participate in the

1 counseling services necessary to bring about the cessation of
2 domestic abuse against the victim. The defendant may be required to
3 pay all or part of the cost of the treatment or counseling services;

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

17 ~~11.~~ 10. In addition to the other sentencing powers of the
18 court, the court, in the case of a person convicted of child abuse
19 or neglect, as defined in Section 1-1-105 of Title 10A of the
20 Oklahoma Statutes, may require the person to undergo treatment or to
21 participate in counseling services. The defendant may be required
22 to pay all or part of the cost of the treatment or counseling
23 services;

24

1 ~~12.~~ 11. In addition to the other sentencing powers of the
2 court, the court, in the case of a person convicted of cruelty to
3 animals pursuant to Section 1685 of Title 21 of the Oklahoma
4 Statutes, may require the person to pay restitution to animal
5 facilities for medical care and any boarding costs of victimized
6 animals;

7 ~~13.~~ 12. In addition to the other sentencing powers of the
8 court, a sex offender who is habitual or aggravated as defined by
9 Section 584 of Title 57 of the Oklahoma Statutes and who is required
10 to register as a sex offender pursuant to the Oklahoma Sex Offenders
11 Registration Act shall be supervised by the Department of
12 Corrections for the duration of the registration period and shall be
13 assigned to a global position monitoring device by the Department of
14 Corrections for the duration of the registration period. The cost
15 of such monitoring device shall be reimbursed by the offender;

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

23 ~~15.~~ 14. In addition to the other sentencing powers of the
24 court, in the case of a sex offender who is required by law to

1 register pursuant to the Sex Offenders Registration Act, the court
2 shall require the person to register any electronic mail address
3 information, instant message, chat or other Internet communication
4 name or identity information that the person uses or intends to use
5 while accessing the Internet or used for other purposes of social
6 networking or other similar Internet communication.

7 B. Notwithstanding any other provision of law, any person who
8 is found guilty of a violation of any provision of Section 761 or
9 11-902 of Title 47 of the Oklahoma Statutes or any person pleading
10 guilty or nolo contendere for a violation of any provision of such
11 sections shall be ordered to participate in, prior to sentencing, an
12 alcohol and drug assessment and evaluation by an assessment agency
13 or assessment personnel certified by the Department of Mental Health
14 and Substance Abuse Services for the purpose of evaluating the
15 receptivity to treatment and prognosis of the person. The court
16 shall order the person to reimburse the agency or assessor for the
17 evaluation. The fee shall be the amount provided in subsection C of
18 Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation
19 shall be conducted at a certified assessment agency, the office of a
20 certified assessor or at another location as ordered by the court.
21 The agency or assessor shall, within seventy-two (72) hours from the
22 time the person is assessed, submit a written report to the court
23 for the purpose of assisting the court in its final sentencing
24 determination. No person, agency or facility operating an alcohol

1 and drug substance abuse evaluation program certified by the
2 Department of Mental Health and Substance Abuse Services shall
3 solicit or refer any person evaluated pursuant to this subsection
4 for any treatment program or alcohol and drug substance abuse
5 service in which such person, agency or facility has a vested
6 interest; however, this provision shall not be construed to prohibit
7 the court from ordering participation in or any person from
8 voluntarily utilizing a treatment program or alcohol and drug
9 substance abuse service offered by such person, agency or facility.
10 If a person is sentenced to the custody of the Department of
11 Corrections and the court has received a written evaluation report
12 pursuant to this subsection, the report shall be furnished to the
13 Department of Corrections with the judgment and sentence. Any
14 evaluation report submitted to the court pursuant to this subsection
15 shall be handled in a manner which will keep such report
16 confidential from the general public's review. Nothing contained in
17 this subsection shall be construed to prohibit the court from
18 ordering judgment and sentence in the event the defendant fails or
19 refuses to comply with an order of the court to obtain the
20 evaluation required by this subsection.

21 C. When sentencing a person convicted of a crime, the court
22 shall first consider a program of restitution for the victim, as
23 well as imposition of a fine or incarceration of the offender. The
24 provisions of paragraph 1 of subsection A of this section shall not

1 apply to defendants being sentenced upon their third or subsequent
2 to their third conviction of a felony or, beginning January 1, 1993,
3 to defendants being sentenced for their second or subsequent felony
4 conviction for violation of Section 11-902 of Title 47 of the
5 Oklahoma Statutes, except as otherwise provided in this subsection.
6 In the case of a person being sentenced for their second or
7 subsequent felony conviction for violation of Section 11-902 of
8 Title 47 of the Oklahoma Statutes, the court may sentence the person
9 pursuant to the provisions of paragraph 1 of subsection A of this
10 section if the court orders the person to submit to electronically
11 monitored home detention administered and supervised by the
12 Department of Corrections pursuant to subparagraph e of paragraph 7
13 of subsection A of this section. Provided, the court may waive
14 these prohibitions upon written application of the district
15 attorney. Both the application and the waiver shall be made part of
16 the record of the case.

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

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

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

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

22 G. 1. The Department of Corrections is hereby authorized,
23 subject to funds available through appropriation by the Legislature,
24

1 to contract with counties for the administration of county Community
2 Service Sentencing Programs.

3 2. Any offender eligible to participate in the Program pursuant
4 to this section shall be eligible to participate in a county
5 Program; provided, participation in county-funded Programs shall not
6 be limited to offenders who would otherwise be sentenced to
7 confinement with the Department of Corrections.

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

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

22 5. The Department shall annually make a report to the Governor,
23 the President Pro Tempore of the Senate and the Speaker of the House
24 on the number of such Programs, the number of participating

1 offenders, the success rates of each Program according to criteria
2 established by the Department and the costs of each Program.

3 H. As used in this section:

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

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

14 3. "Victims impact panel program" means a program conducted by
15 a corporation registered with the Secretary of State in Oklahoma for
16 the purpose of operating a victims impact panel program. The
17 program shall include live presentations from presenters who will
18 share personal stories with participants about how alcohol, drug
19 abuse, the operation of a motor vehicle while using an electronic
20 communication device or the illegal conduct of others has personally
21 impacted the lives of the presenters. A victims impact panel
22 program shall be attended by persons who have committed the offense
23 of driving, operating or being in actual physical control of a motor
24 vehicle while under the influence of alcohol or other intoxicating

1 substance, operating a motor vehicle while the ability of the person
2 to operate such vehicle was impaired due to the consumption of
3 alcohol or any other substance or operating a motor vehicle while
4 using an electronic device. Persons attending a victims impact
5 panel program shall be required to pay a fee of not more than Sixty
6 Dollars (\$60.00) to the provider of the program. A certificate of
7 completion shall be issued to the person upon satisfying the
8 attendance and fee requirements of the victims impact panel program.
9 The certificate of completion shall contain the business
10 identification number of the program provider. A victims impact
11 panel program shall not be provided by any certified assessment
12 agency or certified assessor unless the assessment agency or
13 certified assessor has been granted an exemption by the Commissioner
14 of the Department of Mental Health and Substance Abuse Services.
15 The provider of the victims impact panel program shall carry general
16 liability insurance and maintain an accurate accounting of all
17 business transactions and funds received in relation to the victims
18 impact panel program. The provider of the victims impact panel
19 program shall annually provide to the Administrative Office of the
20 Courts the following:

- 21 a. proof of registration with the Oklahoma Secretary of
- 22 State,
- 23 b. proof of general liability insurance,
- 24

- 1 c. end-of-year financial statements prepared by a
2 certified public accountant, and
3 d. a copy of federal income tax returns filed with the
4 Internal Revenue Service.

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

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

18 Any person who is incarcerated in the custody of the Department
19 of Corrections after July 1, 1996, and who has not been released
20 before January 1, 2006, shall provide a blood or saliva sample prior
21 to release. Every person subject to DNA testing after January 1,
22 2006, whose sentence does not include a term of confinement with the
23 Department of Corrections shall submit a blood or saliva sample.
24 Every person subject to DNA testing who is sentenced to unsupervised

1 probation or otherwise not supervised by the Department of
2 Corrections shall submit for blood or saliva testing to the sheriff
3 of the sentencing county.

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

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

6 SECTION 4. AMENDATORY 47 O.S. 2011, Section 11-1117, is
7 amended to read as follows:

8 Section 11-1117. A. It shall be unlawful for a person less
9 than eighteen (18) years of age to operate or to be carried as a
10 passenger upon an all-terrain vehicle unless the person wears a
11 crash helmet of a type which complies with standards established by
12 49 C.F.R., Section 571.218.

13 B. It shall be unlawful for the operator of an all-terrain
14 vehicle to carry a passenger unless that all-terrain vehicle has
15 been specifically designed by the manufacturer to carry passengers
16 in addition to the operator.

17 C. Fine and court costs for violating the provisions of this
18 section shall not exceed Twenty-five Dollars (\$25.00). Any peace
19 officer of this state including, but not limited to, park rangers,
20 is authorized to enforce the provisions of this section. ~~All monies~~
21 ~~collected pursuant to a citation for a violation of this section~~
22 ~~shall be deposited in the Oklahoma Tourism and Recreation Department~~
23 ~~Revolving Fund for credit to the cost center of the state park or~~
24 ~~public recreation area where such citation was issued.~~

1 D. Any parent, legal guardian or person having actual
2 responsibility for a person under eighteen (18) years of age, or who
3 is the owner of the all-terrain vehicle operated by a person under
4 eighteen (18) years of age, who knows, or should have known, that
5 the person operating the all-terrain vehicle is not in compliance
6 with the provisions of this section, shall be punishable according
7 to the provisions of subsection C of this section.

8 E. As used in this section, "all-terrain vehicle" means a
9 vehicle manufactured and used exclusively for off-highway use,
10 traveling on four or more non-highway tires, having a seat designed
11 to be straddled by the operator, and which is steered by the use of
12 handlebars.

13 F. "Recreational off-highway vehicle" means a vehicle
14 manufactured and used exclusively for off-highway use, traveling on
15 four or more non-highway tires, having non-straddle seating and
16 which is steered by a steering wheel.

17 G. The provisions of this section shall apply only to persons
18 operating all-terrain vehicles on public lands.

19 H. The provisions of this section shall not apply to persons
20 operating an all-terrain vehicle on privately owned property.

21 SECTION 5. AMENDATORY 47 O.S. 2011, Section 1125, is
22 amended to read as follows:

23 Section 1125. A. If the owner of a vehicle becomes employed in
24 this state, the vehicle is deemed to be subject to tax in this state

1 and, within thirty (30) days from the date of employment, shall be
2 registered upon the same terms and conditions that resident owners
3 are required to register such vehicles in this state. However, the
4 owner of the vehicle who is employed in this state and commutes
5 daily from an adjoining state shall be exempt from the provisions in
6 this section. The penalty for failure to register the vehicle in
7 the manner provided in this subsection shall be equal to the license
8 or registration fee due, and any such vehicle may be seized and held
9 at any time for any such delinquency and sold for nonpayment of the
10 license or registration fees in the same manner that domestic
11 vehicles may be seized and sold at any time of the year upon ten
12 (10) days' notice.

13 ~~If the vehicle is detained by a law enforcement officer of this~~
14 ~~state and it is determined that the owner of such vehicle has failed~~
15 ~~to comply with the provisions of this subsection, a penalty of Ten~~
16 ~~Dollars (\$10.00) shall be assessed in addition to the penalties~~
17 ~~previously provided in this section. This penalty of Ten Dollars~~
18 ~~(\$10.00) shall be paid to the pension fund of the law enforcement~~
19 ~~officer, as defined in Section 1-147 of Title 47 of the Oklahoma~~
20 ~~Statutes, who detained the vehicle.~~

21 B. Any student certified as a full-time-equivalent student by
22 an institution of higher learning in this state and being a
23 nonresident of Oklahoma, presently attending any institution of
24 higher learning, shall not be required to purchase an Oklahoma

1 license plate, provided that the state of residence of such student
2 affords a similar exemption to Oklahoma students attending
3 institutions of higher learning in such state. This exception for
4 nonresident students does not apply when such student registers to
5 vote as a resident in Oklahoma.

6 C. Any vehicle, including a manufactured home, other than a
7 commercial truck which is owned by a visiting nonresident and is
8 properly registered in its native state for the current year and
9 remains here for any period in excess of sixty (60) days shall be
10 registered upon the same terms and conditions that resident owners
11 are required to register such vehicles in this state. Any vehicle
12 within this state, owned by a nonresident which is not properly
13 registered in its native state for the current year, shall be
14 registered under the same terms and conditions as such domestic
15 vehicles are required to be registered.

16 SECTION 6. AMENDATORY 74 O.S. 2011, Section 2217, is
17 amended to read as follows:

18 Section 2217. The public shall have the right to access and use
19 the facilities, services, and programs provided within state parks.

20 1. Notwithstanding any other provision of law, no person may:

21 a. discharge fireworks in any area of a state park unless
22 specified otherwise by the Division of State Parks
23 Director,
24

- 1 b. possess any glass container in a designated and posted
2 swim or beach area within a state park,
- 3 c. build a fire within a state park in areas posted as
4 prohibited by the Department,
- 5 d. solicit or demand gifts, money, goods or services
6 within a state park,
- 7 e. enter a state park with a dog, unless the dog is on a
8 leash, or permit any dog to enter a state park or
9 recreation area under the jurisdiction of the
10 Commission. It is further provided that any
11 authorized member of the Department or any authorized
12 employee of the Oklahoma Department of Wildlife
13 Conservation may kill any vicious dog found running
14 loose in any state park which poses imminent threat to
15 humans or other animals, or which may be chasing or
16 running any game in the state park. Any such
17 authorized employees of the Departments shall not be
18 held liable for the killing of said dog,
- 19 f. injure, destroy, mutilate or deface any building,
20 structure, sign, rock, tree, shrub, vine, or property,
21 or dispose of any matter which will likely contaminate
22 any swimming pool or other waters on the state park,
23 or take, kill, injure, pursue, hunt, or molest, any
24 wild game animal, or mar or rifle the nest of any bird

1 or the den or nest or abode of any wild animal within
2 any of the state parks, recreational grounds or state
3 monuments now created or which may be hereafter
4 acquired or designated,

5 g. use or operate motor vehicles, including motorcycles,
6 motorbikes or motor scooters, in areas not
7 specifically posted by the Department, or

8 h. sell, hawk, or peddle within a state park any goods,
9 wares, merchandise, liquids, edibles, or any item of
10 value, without having a contract or lease agreement
11 approved by the Commission.

12 2. Any such violation of the provisions of this section shall
13 be punishable as a misdemeanor, and subject to a fine of not less
14 than Fifty Dollars (\$50.00) and no more than Five Hundred Dollars
15 (\$500.00), or imprisonment in the county jail for not more than
16 thirty (30) days, or by both such fine and imprisonment.

17 ~~3. Fifty percent (50%) of all monies collected pursuant to this~~
18 ~~section shall be deposited in the Oklahoma Tourism and Recreation~~
19 ~~Department Revolving Fund and fifty percent (50%) shall be remitted~~
20 ~~to the county in which the violation is made.~~

21 SECTION 7. REPEALER Section 2, Chapter 179, O.S.L. 2012
22 (19 O.S. Supp. 2019, Section 339.7), is hereby repealed.

23 SECTION 8. REPEALER 47 O.S. 2011, Section 11-403.1, is
24 hereby repealed.

1 SECTION 9. REPEALER 47 O.S. 2011, Section 40-123, as
2 amended by Section 175, Chapter 304, O.S.L. 2012 (47 O.S. Supp.
3 2019, Section 40-123), is hereby repealed.

4 SECTION 10. REPEALER 63 O.S. 2011, Section 4235, is
5 hereby repealed.

6 SECTION 11. REPEALER 63 O.S. 2011, Section 4236, as
7 amended by Section 522, Chapter 304, O.S.L. 2012 (63 O.S. Supp.
8 2019, Section 4236), is hereby repealed.

9 SECTION 12. REPEALER 70 O.S. 2011, Section 18-118.1, as
10 amended by Section 609, Chapter 304, O.S.L. 2012 (70 O.S. Supp.
11 2019, Section 18-118.1), is hereby repealed.

12 SECTION 13. This act shall become effective November 1, 2020.

13 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
14 February 12, 2020 - DO PASS AS AMENDED
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