

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL 230

By: Bice

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5  
6 AS INTRODUCED

7 An Act relating to victim impact panel programs;  
8 amending 22 O.S. 2011, Sections 991a, as last amended  
9 by Section 10, Chapter 128, O.S.L. 2018 and 991c, as  
10 last amended by Section 12, Chapter 128 (22 O.S.  
11 Supp. 2018, Sections 991a and 991c), which relate to  
12 sentencing powers of the court and deferred  
13 sentences; allowing for an online program;  
14 prescribing cost of the program; directing courts to  
15 determine ability to pay; amending 47 O.S. 2011,  
16 section 11-902, as last amended by Section 1, Chapter  
17 61, O.S.L. 2018 (47 O.S. Supp. 2018, Section 11-902),  
18 which relates to penalty for persons under the  
19 influence of alcohol or other intoxicating  
20 substances; allowing for an online program;  
21 prescribing cost of the program; directing courts to  
22 determine ability to pay; updating statutory  
23 language; and providing an effective date.  
24

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

19 SECTION 1. AMENDATORY 22 O.S. 2011, Section 991a, as  
20 last amended by Section 10, Chapter 128, O.S.L. 2018 (22 O.S. Supp.  
21 2018, Section 991a), is amended to read as follows:

22 Section 991a. A. Except as otherwise provided in the Elderly  
23 and Incapacitated Victim's Protection Program, when a defendant is  
24

1 convicted of a crime and no death sentence is imposed, the court  
2 shall either:

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

7 a. to provide restitution to the victim as provided by  
8 Section 991f et seq. of this title or according to a  
9 schedule of payments established by the sentencing  
10 court, together with interest upon any pecuniary sum  
11 at the rate of twelve percent (12%) per annum, if the  
12 defendant agrees to pay such restitution or, in the  
13 opinion of the court, if the defendant is able to pay  
14 such restitution without imposing manifest hardship on  
15 the defendant or the immediate family and if the  
16 extent of the damage to the victim is determinable  
17 with reasonable certainty,

18 b. to reimburse any state agency for amounts paid by the  
19 state agency for hospital and medical expenses  
20 incurred by the victim or victims, as a result of the  
21 criminal act for which such person was convicted,  
22 which reimbursement shall be made directly to the  
23 state agency, with interest accruing thereon at the  
24 rate of twelve percent (12%) per annum,

- 1 c. to engage in a term of community service without  
2 compensation, according to a schedule consistent with  
3 the employment and family responsibilities of the  
4 person convicted,
- 5 d. to pay a reasonable sum into any trust fund,  
6 established pursuant to the provisions of Sections 176  
7 through 180.4 of Title 60 of the Oklahoma Statutes,  
8 and which provides restitution payments by convicted  
9 defendants to victims of crimes committed within this  
10 state wherein such victim has incurred a financial  
11 loss,
- 12 e. to confinement in the county jail for a period not to  
13 exceed six (6) months,
- 14 f. to confinement as provided by law together with a term  
15 of post-imprisonment community supervision for not  
16 less than three (3) years of the total term allowed by  
17 law for imprisonment, with or without restitution;  
18 provided, however, the authority of this provision is  
19 limited to Section 843.5 of Title 21 of the Oklahoma  
20 Statutes when the offense involved sexual abuse or  
21 sexual exploitation; Sections 681, 741 and 843.1 of  
22 Title 21 of the Oklahoma Statutes when the offense  
23 involved sexual abuse or sexual exploitation; and  
24 Sections 865 et seq., 885, 886, 888, 891, 1021,

1 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and  
2 1123 of Title 21 of the Oklahoma Statutes,

3 g. to repay the reward or part of the reward paid by a  
4 local certified crime stoppers program and the  
5 Oklahoma Reward System. In determining whether the  
6 defendant shall repay the reward or part of the  
7 reward, the court shall consider the ability of the  
8 defendant to make the payment, the financial hardship  
9 on the defendant to make the required payment, and the  
10 importance of the information to the prosecution of  
11 the defendant as provided by the arresting officer or  
12 the district attorney with due regard for the  
13 confidentiality of the records of the local certified  
14 crime stoppers program and the Oklahoma Reward System.  
15 The court shall assess this repayment against the  
16 defendant as a cost of prosecution. The term  
17 "certified" means crime stoppers organizations that  
18 annually meet the certification standards for crime  
19 stoppers programs established by the Oklahoma Crime  
20 Stoppers Association to the extent those standards do  
21 not conflict with state statutes. The term "court"  
22 refers to all municipal and district courts within  
23 this state. The "Oklahoma Reward System" means the  
24

1 reward program established by Section 150.18 of Title  
2 74 of the Oklahoma Statutes,

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

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

1 Section 150.19a of Title 74 of the Oklahoma Statutes  
2 or to the general fund wherein the other law  
3 enforcement agency is located,

- 4 j. to pay a reasonable sum to the Crime Victims  
5 Compensation Board, created by Section 142.2 et seq.  
6 of Title 21 of the Oklahoma Statutes, for the benefit  
7 of crime victims,
- 8 k. to reimburse the court fund for amounts paid to court-  
9 appointed attorneys for representing the defendant in  
10 the case in which the person is being sentenced,
- 11 l. to participate in an assessment and evaluation by an  
12 assessment agency or assessment personnel certified by  
13 the Department of Mental Health and Substance Abuse  
14 Services pursuant to Section 3-460 of Title 43A of the  
15 Oklahoma Statutes and, as determined by the  
16 assessment, participate in an alcohol and drug  
17 substance abuse course or treatment program or both,  
18 pursuant to Sections 3-452 and 3-453 of Title 43A of  
19 the Oklahoma Statutes, or as ordered by the court,
- 20 m. to be placed in a victims impact panel program, as  
21 defined in subsection H of this section, or  
22 victim/offender reconciliation program and payment of  
23 a fee to the program of not less than Fifteen Dollars  
24 (\$15.00) nor more than Sixty Dollars (\$60.00) as set

1 by the governing authority of the program to offset  
2 the cost of participation by the defendant. Provided,  
3 each victim/offender reconciliation program shall be  
4 required to obtain a written consent form voluntarily  
5 signed by the victim and defendant that specifies the  
6 methods to be used to resolve the issues, the  
7 obligations and rights of each person, and the  
8 confidentiality of the proceedings. Volunteer  
9 mediators and employees of a victim/offender  
10 reconciliation program shall be immune from liability  
11 and have rights of confidentiality as provided in  
12 Section 1805 of Title 12 of the Oklahoma Statutes,  
13 n. to install, at the expense of the defendant, an  
14 ignition interlock device approved by the Board of  
15 Tests for Alcohol and Drug Influence. The device  
16 shall be installed upon every motor vehicle operated  
17 by the defendant, and the court shall require that a  
18 notation of this restriction be affixed to the  
19 defendant's driver license. The restriction shall  
20 remain on the driver license not exceeding two (2)  
21 years to be determined by the court. The restriction  
22 may be modified or removed only by order of the court  
23 and notice of any modification order shall be given to  
24 the Department of Public Safety. Upon the expiration

1 of the period for the restriction, the Department of  
2 Public Safety shall remove the restriction without  
3 further court order. Failure to comply with the order  
4 to install an ignition interlock device or operating  
5 any vehicle without a device during the period of  
6 restriction shall be a violation of the sentence and  
7 may be punished as deemed proper by the sentencing  
8 court. As used in this paragraph, "ignition interlock  
9 device" means a device that, without tampering or  
10 intervention by another person, would prevent the  
11 defendant from operating a motor vehicle if the  
12 defendant has a blood or breath alcohol concentration  
13 of two-hundredths (0.02) or greater,

- 14 o. to be confined by electronic monitoring administered  
15 and supervised by the Department of Corrections or a  
16 community sentence provider, and payment of a  
17 monitoring fee to the supervising authority, not to  
18 exceed Three Hundred Dollars (\$300.00) per month. Any  
19 fees collected pursuant to this paragraph shall be  
20 deposited with the appropriate supervising authority.  
21 Any willful violation of an order of the court for the  
22 payment of the monitoring fee shall be a violation of  
23 the sentence and may be punished as deemed proper by  
24 the sentencing court. As used in this paragraph,



1 "electronic monitoring" means confinement of the  
2 defendant within a specified location or locations  
3 with supervision by means of an electronic device  
4 approved by the Department of Corrections which is  
5 designed to detect if the defendant is in the court-  
6 ordered location at the required times and which  
7 records violations for investigation by a qualified  
8 supervisory agency or person,

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

- 1           pursuant to law or rule shall be certified by the  
2           appropriate state agency or a national organization,  
3       q.   to submit to periodic testing for alcohol,  
4           intoxicating substance, or controlled dangerous  
5           substances by a qualified laboratory,  
6       r.   to pay a fee, costs for treatment, education,  
7           supervision, participation in a program, or any  
8           combination thereof as determined by the court, based  
9           upon the defendant's ability to pay the fees or costs,  
10      s.   to be supervised by a Department of Corrections  
11           employee, a private supervision provider, or other  
12           person designated by the court,  
13      t.   to obtain positive behavior modeling by a trained  
14           mentor,  
15      u.   to serve a term of confinement in a restrictive  
16           housing facility available in the community,  
17      v.   to serve a term of confinement in the county jail at  
18           night or during weekends pursuant to Section 991a-2 of  
19           this title or for work release,  
20      w.   to obtain employment or participate in employment-  
21           related activities,  
22      x.   to participate in mandatory day reporting to  
23           facilities or persons for services, payments, duties  
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1 or person-to-person contacts as specified by the  
2 court,

3 y. to pay day fines not to exceed fifty percent (50%) of  
4 the net wages earned. For purposes of this paragraph,  
5 "day fine" means the offender is ordered to pay an  
6 amount calculated as a percentage of net daily wages  
7 earned. The day fine shall be paid to the local  
8 community sentencing system as reparation to the  
9 community. Day fines shall be used to support the  
10 local system,

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

13 aa. to repair or restore property damaged by the  
14 defendant's conduct, if the court determines the  
15 defendant possesses sufficient skill to repair or  
16 restore the property and the victim consents to the  
17 repairing or restoring of the property,

18 bb. to restore damaged property in kind or payment of out-  
19 of-pocket expenses to the victim, if the court is able  
20 to determine the actual out-of-pocket expenses  
21 suffered by the victim,

22 cc. to attend a victim-offender reconciliation program if  
23 the victim agrees to participate and the offender is  
24 deemed appropriate for participation,

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

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

1 supervision. The examination shall be administered by  
2 a certified licensed polygraph examiner. The  
3 treatment program must be approved by the Department  
4 of Corrections or the Department of Mental Health and  
5 Substance Abuse Services. Such treatment shall be at  
6 the expense of the defendant based on the defendant's  
7 ability to pay,

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

17 gg. in the case of a person convicted of any false or  
18 bogus check violation, as defined in Section 1541.4 of  
19 Title 21 of the Oklahoma Statutes, impose a fee of  
20 Twenty-five Dollars (\$25.00) to the victim for each  
21 check, and impose a bogus check fee to be paid to the  
22 district attorney. The bogus check fee paid to the  
23 district attorney shall be equal to the amount  
24 assessed as court costs plus Twenty-five Dollars

1 (\$25.00) for each check upon filing of the case in  
2 district court. This money shall be deposited in the  
3 Bogus Check Restitution Program Fund as established in  
4 subsection B of Section 114 of this title.

5 Additionally, the court may require the offender to  
6 pay restitution and bogus check fees on any other  
7 bogus check or checks that have been submitted to the  
8 District Attorney Bogus Check Restitution Program,

9 hh. in the case of a person being sentenced for a  
10 conviction for a violation of Section 644 of Title 21  
11 of the Oklahoma Statutes, require the person to  
12 receive an assessment for batterers, which shall be  
13 conducted through a certified treatment program for  
14 batterers, and

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

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

21 However, unless under the supervision of the district attorney,  
22 the offender shall be required to pay Forty Dollars (\$40.00) per  
23 month to the district attorney during the first two (2) years of  
24 probation to compensate the district attorney for the costs incurred

1 during the prosecution of the offender and for the additional work  
2 of verifying the compliance of the offender with the rules and  
3 conditions of his or her probation. The district attorney may waive  
4 any part of this requirement in the best interests of justice. The  
5 court shall not waive, suspend, defer or dismiss the costs of  
6 prosecution in its entirety. However, if the court determines that  
7 a reduction in the fine, costs and costs of prosecution is  
8 warranted, the court shall equally apply the same percentage  
9 reduction to the fine, costs and costs of prosecution owed by the  
10 offender;

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

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

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

1 costs incurred by the Bureau during the investigation of the  
2 defendant's case may be determined with reasonable certainty;

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

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

- 20 a. to participate in an alcohol and drug assessment and  
21 evaluation by an assessment agency or assessment  
22 personnel certified by the Department of Mental Health  
23 and Substance Abuse Services pursuant to Section 3-460  
24 of Title 43A of the Oklahoma Statutes and, as



1 determined by the assessment, participate in an  
2 alcohol and drug substance abuse course or treatment  
3 program or both, pursuant to Sections 3-452 and 3-453  
4 of Title 43A of the Oklahoma Statutes,

- 5 b. to attend a victims impact panel program, as defined  
6 in subsection H of this section, if such a program is  
7 offered in the county where the judgment is rendered,  
8 and to pay a fee of not less than Fifteen Dollars  
9 (\$15.00) nor more than Sixty Dollars (\$60.00) as set  
10 by the governing authority of the program and approved  
11 by the court, to the program to offset the cost of  
12 participation by the defendant, if in the opinion of  
13 the court the defendant has the ability to pay such  
14 fee. The court may alternatively permit the person to  
15 participate in a victims impact panel program offered  
16 online, as defined in subsection H of this section,  
17 and to pay a fee of not more than One Hundred Fifty  
18 Dollars (\$150.00) as set by the governing authority of  
19 the program and approved by the court, if in the  
20 opinion of the court, the defendant has the ability to  
21 pay such fee. For individuals deemed indigent by the  
22 court, the victims impact panel program offered online  
23 may be provided at no charge to such indigent person,

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

21 8. In addition to the other sentencing powers of the court, in  
22 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 an

1 intervention program for batterers certified by the Office of the  
2 Attorney General, necessary to bring about the cessation of domestic  
3 abuse. In the instance where the defendant alleges that he or she  
4 is a victim of domestic abuse and the current conviction is a  
5 response to that abuse, the court may require the defendant to  
6 undergo an assessment by a domestic violence program certified by  
7 the Office of the Attorney General, and, if based upon the results  
8 of the assessment, the defendant is determined to be a victim of  
9 domestic violence, the defendant shall undergo treatment and  
10 participate in a certified program for domestic violence victims.  
11 The defendant may be required to pay all or part of the cost of the  
12 treatment or counseling services;

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

1 Substance Abuse Services. Such treatment shall be at the expense of  
2 the defendant based on the defendant's ability to pay;

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

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

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

1           13. In addition to the other sentencing powers of the court, in  
2 the case of a sex offender who is required by law to register  
3 pursuant to the Sex Offenders Registration Act, the court may  
4 prohibit the person from accessing or using any Internet social  
5 networking web site that has the potential or likelihood of allowing  
6 the sex offender to have contact with any child who is under the age  
7 of eighteen (18) years; or

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

16           B. Notwithstanding any other provision of law, any person who  
17 is found guilty of a violation of any provision of Section 761 or  
18 11-902 of Title 47 of the Oklahoma Statutes or any person pleading  
19 guilty or nolo contendere for a violation of any provision of such  
20 sections shall be ordered to participate in, prior to sentencing, an  
21 alcohol and drug assessment and evaluation by an assessment agency  
22 or assessment personnel certified by the Department of Mental Health  
23 and Substance Abuse Services for the purpose of evaluating the  
24 receptivity to treatment and prognosis of the person. The court

1 shall order the person to reimburse the agency or assessor for the  
2 evaluation. The fee shall be the amount provided in subsection C of  
3 Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation  
4 shall be conducted at a certified assessment agency, the office of a  
5 certified assessor or at another location as ordered by the court.  
6 The agency or assessor shall, within seventy-two (72) hours from the  
7 time the person is assessed, submit a written report to the court  
8 for the purpose of assisting the court in its final sentencing  
9 determination. No person, agency or facility operating an alcohol  
10 and drug substance abuse evaluation program certified by the  
11 Department of Mental Health and Substance Abuse Services shall  
12 solicit or refer any person evaluated pursuant to this subsection  
13 for any treatment program or alcohol and drug substance abuse  
14 service in which such person, agency or facility has a vested  
15 interest; however, this provision shall not be construed to prohibit  
16 the court from ordering participation in or any person from  
17 voluntarily utilizing a treatment program or alcohol and drug  
18 substance abuse service offered by such person, agency or facility.  
19 If a person is sentenced to the custody of the Department of  
20 Corrections and the court has received a written evaluation report  
21 pursuant to this subsection, the report shall be furnished to the  
22 Department of Corrections with the judgment and sentence. Any  
23 evaluation report submitted to the court pursuant to this subsection  
24 shall be handled in a manner which will keep such report

1 confidential from the general public's review. Nothing contained in  
2 this subsection shall be construed to prohibit the court from  
3 ordering judgment and sentence in the event the defendant fails or  
4 refuses to comply with an order of the court to obtain the  
5 evaluation required by this subsection.

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

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

13 2. A fourth or subsequent conviction for any other felony  
14 crime; or

15 3. Beginning January 1, 1993, a defendant being sentenced for a  
16 second or subsequent felony conviction for violation of Section 11-  
17 902 of Title 47 of the Oklahoma Statutes, except as otherwise  
18 provided in this subsection.

19 In the case of a person being sentenced for a second or  
20 subsequent felony conviction for violation of Section 11-902 of  
21 Title 47 of the Oklahoma Statutes, the court may sentence the person  
22 pursuant to the provisions of paragraph 1 of subsection A of this  
23 section if the court orders the person to submit to electronically  
24 monitored home detention administered and supervised by the



1 Department of Corrections pursuant to subparagraph e of paragraph 7  
2 of subsection A of this section. Provided, the court may waive  
3 these prohibitions upon written application of the district  
4 attorney. Both the application and the waiver shall be made part of  
5 the record of the case.

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

9 E. Probation, for purposes of subsection A of this section, is  
10 a procedure by which a defendant found guilty of a crime, whether  
11 upon a verdict or plea of guilty or upon a plea of nolo contendere,  
12 is released by the court subject to conditions imposed by the court  
13 and subject to supervision by the Department of Corrections, a  
14 private supervision provider or other person designated by the  
15 court. Such supervision shall be initiated upon an order of  
16 probation from the court, and shall not exceed two (2) years, unless  
17 a petition alleging a violation of any condition of deferred  
18 judgment or seeking revocation of the suspended sentence is filed  
19 during the supervision, or as otherwise provided by law. In the  
20 case of a person convicted of a sex offense, supervision shall begin  
21 immediately upon release from incarceration or if parole is granted  
22 and shall not be limited to two (2) years. Provided further, any  
23 supervision provided for in this section may be extended for a  
24 period not to exceed the expiration of the maximum term or terms of

1 the sentence upon a determination by the court or the Division of  
2 Probation and Parole of the Department of Corrections that the best  
3 interests of the public and the release will be served by an  
4 extended period of supervision. Any supervision provided for under  
5 this section may not have the period of supervision extended for a  
6 failure to pay fines, fees and other costs, excluding restitution,  
7 except upon a finding of willful nonpayment.

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

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

18 2. Any offender eligible to participate in the Program pursuant  
19 to Section 991a et seq. of this title shall be eligible to  
20 participate in a county Program; provided, participation in county-  
21 funded Programs shall not be limited to offenders who would  
22 otherwise be sentenced to confinement with the Department of  
23 Corrections.

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

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

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

20           H. As used in this section:

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

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

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

8 3. "Victims impact panel program" means either a meeting with  
9 at least one live presenter who will share personal stories with  
10 participants about how alcohol, drug abuse and the illegal conduct  
11 of others has personally impacted the life of the presenter, or a  
12 program offered online with at least ten (10) personal stories from  
13 victims and offenders about how alcohol, drug abuse and illegal  
14 conduct of others has personally impacted the victims and offenders.  
15 Victims impact panel programs offered online shall provide a system  
16 for testing for attention and comprehension and a system for  
17 verifying the identity of the person participating in the panel  
18 program. A victims impact panel program shall be attended by  
19 persons who have committed the offense of driving, operating or  
20 being in actual physical control of a motor vehicle while under the  
21 influence of alcohol or other intoxicating substance. Persons  
22 attending a victims impact panel program shall be required to pay a  
23 fee of not less than Fifteen Dollars (\$15.00) nor more than Sixty  
24 Dollars (\$60.00) to the provider of the program. Persons

1 participating in a victims impact panel program offered online shall  
2 be required to pay a fee of not more than One Hundred Fifty Dollars  
3 (\$150.00) to the provider of the program; however, persons deemed  
4 indigent by the court may participate in the program at no charge by  
5 the provider. A certificate of completion shall be issued to the  
6 person upon satisfying the attendance and fee requirements of the  
7 victims impact panel program. A victims impact panel program shall  
8 not be provided by any certified assessment agency or certified  
9 assessor. The provider of the victims impact panel program shall  
10 carry general liability insurance and maintain an accurate  
11 accounting of all business transactions and funds received in  
12 relation to the victims impact panel program.

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

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

1 Except as required by the Sex Offenders Registration Act, a deferred  
2 judgment does not require submission to deoxyribonucleic acid  
3 testing.

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

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

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

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

16 SECTION 2. AMENDATORY 22 O.S. 2011, Section 991c, as  
17 last amended by Section 12, Chapter 128, O.S.L. 2018 (22 O.S. Supp.  
18 2018, Section 991c), is amended to read as follows:

19 Section 991c. A. Upon a verdict or plea of guilty or upon a  
20 plea of nolo contendere, but before a judgment of guilt, the court  
21 may, without entering a judgment of guilt and with the consent of  
22 the defendant, defer further proceedings upon the specific  
23 conditions prescribed by the court not to exceed a seven-year  
24 period, except as authorized under subsection B of this section.



1 The court shall first consider restitution among the various  
2 conditions it may prescribe. The court may also consider ordering  
3 the defendant to:

4 1. Pay court costs;

5 2. Pay an assessment in lieu of any fine authorized by law for  
6 the offense;

7 3. Pay any other assessment or cost authorized by law;

8 4. Engage in a term of community service without compensation,  
9 according to a schedule consistent with the employment and family  
10 responsibilities of the defendant;

11 5. County jail confinement for a period not to exceed ninety  
12 (90) days or the maximum amount of jail time provided for the  
13 offense, if it is less than ninety (90) days;

14 6. Pay an amount as reimbursement for reasonable attorney fees,  
15 to be paid into the court fund, if a court-appointed attorney has  
16 been provided to defendant;

17 7. Be supervised in the community for a period not to exceed  
18 eighteen (18) months, unless a petition alleging violation of any  
19 condition of deferred judgment is filed during the period of  
20 supervision. As a condition of any supervision, the defendant shall  
21 be required to pay a supervision fee of Forty Dollars (\$40.00) per  
22 month. The supervision fee shall be waived in whole or part by the  
23 supervisory agency when the accused is indigent. No person shall be  
24

1 denied supervision based solely on the inability of the person to  
2 pay a fee;

3 8. Pay into the court fund a monthly amount not exceeding Forty  
4 Dollars (\$40.00) per month during any period during which the  
5 proceedings are deferred when the defendant is not to be supervised  
6 in the community. The total amount to be paid into the court fund  
7 shall be established by the court and shall not exceed the amount of  
8 the maximum fine authorized by law for the offense;

9 9. Make other reparations to the community or victim as  
10 required and deemed appropriate by the court;

11 10. Order any conditions which can be imposed for a suspended  
12 sentence pursuant to paragraph 1 of subsection A of Section 991a of  
13 this title; or

14 11. Any combination of the above provisions.

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

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

5 B. When the court has ordered restitution as a condition of  
6 supervision as provided for in subsection A of this section and that  
7 condition has not been satisfied, the court may, at any time prior  
8 to the termination or expiration of the supervision period, order an  
9 extension of supervision for a period not to exceed three (3) years.

10 C. In addition to any conditions of supervision provided for in  
11 subsection A of this section, the court shall, in the case of a  
12 person before the court for the offense of operating or being in  
13 control of a motor vehicle while the person was under the influence  
14 of alcohol, other intoxicating substance, or a combination of  
15 alcohol and another intoxicating substance, or who is before the  
16 court for the offense of operating a motor vehicle while the ability  
17 of the person to operate such vehicle was impaired due to the  
18 consumption of alcohol, require the person to participate in an  
19 alcohol and drug substance abuse evaluation program offered by a  
20 facility or qualified practitioner certified by the Department of  
21 Mental Health and Substance Abuse Services for the purpose of  
22 evaluating the receptivity to treatment and prognosis of the person.  
23 The court shall order the person to reimburse the facility or  
24 qualified practitioner for the evaluation. The Department of Mental

1 Health and Substance Abuse Services shall establish a fee schedule,  
2 based upon the ability of a person to pay, provided the fee for an  
3 evaluation shall not exceed Seventy-five Dollars (\$75.00). The  
4 evaluation shall be conducted at a certified facility, the office of  
5 a qualified practitioner or at another location as ordered by the  
6 court. The facility or qualified practitioner shall, within  
7 seventy-two (72) hours from the time the person is assessed, submit  
8 a written report to the court for the purpose of assisting the court  
9 in its determination of conditions for deferred sentence. No  
10 person, agency or facility operating an alcohol and drug substance  
11 abuse evaluation program certified by the Department of Mental  
12 Health and Substance Abuse Services shall solicit or refer any  
13 person evaluated pursuant to this subsection for any treatment  
14 program or alcohol and drug substance abuse service in which the  
15 person, agency or facility has a vested interest; however, this  
16 provision shall not be construed to prohibit the court from ordering  
17 participation in or any person from voluntarily utilizing a  
18 treatment program or alcohol and drug substance abuse service  
19 offered by such person, agency or facility. Any evaluation report  
20 submitted to the court pursuant to this subsection shall be handled  
21 in a manner which will keep the report confidential from review by  
22 the general public. Nothing contained in this subsection shall be  
23 construed to prohibit the court from ordering judgment and sentence  
24 in the event the defendant fails or refuses to comply with an order

1 of the court to obtain the evaluation required by this subsection.

2 As used in this subsection, "qualified practitioner" means a person  
3 with at least a bachelor's degree in substance abuse treatment,  
4 mental health or a related health care field and at least two (2)  
5 years of experience in providing alcohol abuse treatment, other drug  
6 abuse treatment, or both alcohol and other drug abuse treatment who  
7 is certified each year by the Department of Mental Health and  
8 Substance Abuse Services to provide these assessments. However, any  
9 person who does not meet the requirements for a qualified  
10 practitioner as defined herein, but who has been previously  
11 certified by the Department of Mental Health and Substance Abuse  
12 Services to provide alcohol or drug treatment or assessments, shall  
13 be considered a qualified practitioner provided all education,  
14 experience and certification requirements stated herein are met by  
15 September 1, 1995. The court may also require the person to  
16 participate in one or both of the following:

17 1. An alcohol and drug substance abuse course, pursuant to  
18 Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes; and

19 2. A victims impact panel program, as defined in subsection H  
20 of Section 991a of this title, if such a program is offered in the  
21 county where the judgment is rendered. The defendant shall be  
22 required to pay a fee of not less than Fifteen Dollars (\$15.00) nor  
23 more than Sixty Dollars (\$60.00) as set by the governing authority  
24 of the program and approved by the court to the victims impact panel

1 program to offset the cost of participation by the defendant, if in  
2 the opinion of the court the defendant has the ability to pay such  
3 fee. The court may alternatively permit the person to participate  
4 in a victims impact panel program offered online, as defined in  
5 subsection H of Section 991a of this title, and to pay a fee of not  
6 more than One Hundred Fifty Dollars (\$150.00) as set by the  
7 governing authority of the program and approved by the court, if in  
8 the opinion of the court, the defendant has the ability to pay such  
9 fee. For individuals deemed indigent by the court, the victims  
10 impact panel program offered online may be provided at no charge to  
11 such indigent person.

12 D. Upon completion of the conditions of the deferred judgment,  
13 and upon a finding by the court that the conditions have been met  
14 and all fines, fees, and monetary assessments have been paid as  
15 ordered, the defendant shall be discharged without a court judgment  
16 of guilt, and the court shall order the verdict or plea of guilty or  
17 plea of nolo contendere to be expunged from the record and the  
18 charge shall be dismissed with prejudice to any further action. The  
19 procedure to expunge the record of the defendant shall be as  
20 follows:

21 1. All references to the name of the defendant shall be deleted  
22 from the docket sheet;

23 2. The public index of the filing of the charge shall be  
24 expunged by deletion, mark-out or obliteration;

1           3. Upon expungement, the court clerk shall keep a separate  
2 confidential index of case numbers and names of defendants which  
3 have been obliterated pursuant to the provisions of this section;

4           4. No information concerning the confidential file shall be  
5 revealed or released, except upon written order of a judge of the  
6 district court or upon written request by the named defendant to the  
7 court clerk for the purpose of updating the criminal history record  
8 of the defendant with the Oklahoma State Bureau of Investigation;  
9 and

10          5. Defendants qualifying under Section 18 of this title may  
11 petition the court to have the filing of the indictment and the  
12 dismissal expunged from the public index and docket sheet. This  
13 section shall not be mutually exclusive of Section 18 of this title.

14          Records expunged pursuant to this subsection shall be sealed to  
15 the public but not to law enforcement agencies for law enforcement  
16 purposes. Records expunged pursuant to this subsection shall be  
17 admissible in any subsequent criminal prosecution to prove the  
18 existence of a prior conviction or prior deferred judgment without  
19 the necessity of a court order requesting the unsealing of such  
20 records.

21          E. The provisions of subsection D of this section shall be  
22 retroactive.

23          F. Whenever a judgment has been deferred by the court according  
24 to the provisions of this section, deferred judgment may not be

1 accelerated for any technical violation unless a petition setting  
2 forth the grounds for such acceleration is filed by the district  
3 attorney with the clerk of the sentencing court and competent  
4 evidence justifying the acceleration of the judgment is presented to  
5 the court at a hearing to be held for that purpose. The hearing  
6 shall be held not more than twenty (20) days after the entry of the  
7 plea of not guilty to the petition, unless waived by both the state  
8 and the defendant. Any acceleration of a deferred sentence based on  
9 a technical violation shall not exceed ninety (90) days for a first  
10 acceleration or five (5) years for a second or subsequent  
11 acceleration.

12 G. Upon any violation of the deferred judgment, other than a  
13 technical violation, the court may enter a judgment of guilt and  
14 proceed as provided in Section 991a of this title or may modify any  
15 condition imposed. Provided, however, if the deferred judgment is  
16 for a felony offense, and the defendant commits another felony  
17 offense, the defendant shall not be allowed bail pending appeal.

18 H. The deferred judgment procedure described in this section  
19 shall apply only to defendants who have not been previously  
20 convicted of a felony offense and have not received more than one  
21 deferred judgment for a felony offense within the ten (10) years  
22 previous to the commission of the pending offense.



1            Provided, the court may waive this prohibition upon written  
2 application of the district attorney. Both the application and the  
3 waiver shall be made a part of the record of the case.

4            I. The deferred judgment procedure described in this section  
5 shall not apply to defendants found guilty or who plead guilty or  
6 nolo contendere to a sex offense required by law to register  
7 pursuant to the Sex Offenders Registration Act.

8            J. All defendants who are supervised pursuant to this section  
9 shall be subject to the sanction process as established in  
10 subsection B of Section 991b of this title.

11            SECTION 3.            AMENDATORY            47 O.S. 2011, Section 11-902, as  
12 last amended by Section 1, Chapter 61, O.S.L. 2018 (47 O.S. Supp.  
13 2018, Section 11-902), is amended to read as follows:

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

20            1. Has a blood or breath alcohol concentration, as defined in  
21 Section 756 of this title, of eight-hundredths (0.08) or more at the  
22 time of a test of such person's blood or breath administered within  
23 two (2) hours after the arrest of such person;

24            2. Is under the influence of alcohol;

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

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

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

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

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

21           a. participate in an assessment and evaluation pursuant  
22               to subsection G of this section and shall follow all  
23               recommendations made in the assessment and evaluation,  
24  
25

- 1           b.    be punished by imprisonment in jail for not less than  
2                    ten (10) days nor more than one (1) year, and  
3           c.    be fined not more than One Thousand Dollars  
4                    (\$1,000.00).

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

- 18           a.    follow all recommendations made in the assessment and  
19                    evaluation for treatment at the defendant's expense,  
20                    or  
21           b.    placement in the custody of the Department of  
22                    Corrections for not less than one (1) year and not to  
23                    exceed five (5) years and a fine of not more than Two  
24                    Thousand Five Hundred Dollars (\$2,500.00), or

1 c. treatment, imprisonment and a fine within the  
2 limitations prescribed in subparagraphs a and b of  
3 this paragraph.

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

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

- 17 a. follow all recommendations made in the assessment and  
18 evaluation for treatment at the defendant's expense,  
19 two hundred forty (240) hours of community service and  
20 use of an ignition interlock device, as provided by  
21 subparagraph n of paragraph 1 of subsection A of  
22 Section 991a of Title 22 of the Oklahoma Statutes, or  
23 b. placement in the custody of the Department of  
24 Corrections for not less than one (1) year and not to

1 exceed ten (10) years and a fine of not more than Five  
2 Thousand Dollars (\$5,000.00), or

3 c. treatment, imprisonment and a fine within the  
4 limitations prescribed in subparagraphs a and b of  
5 this paragraph.

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

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

19 a. follow all recommendations made in the assessment and  
20 evaluation for treatment at the defendant's expense,  
21 followed by not less than one (1) year of supervision  
22 and periodic testing at the defendant's expense, four  
23 hundred eighty (480) hours of community service, and  
24 use of an ignition interlock device, as provided by  
25

1           subparagraph n of paragraph 1 of subsection A of  
2           Section 991a of Title 22 of the Oklahoma Statutes, for  
3           a minimum of thirty (30) days, or

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

8           c.   treatment, imprisonment and a fine within the  
9           limitations prescribed in subparagraphs a and b of  
10          this paragraph.

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

14          5.   Any person who, after a previous conviction of a violation  
15          of murder in the second degree or manslaughter in the first degree  
16          in which the death was caused as a result of driving under the  
17          influence of alcohol or other intoxicating substance, is convicted  
18          of a violation of this section shall be guilty of a felony and shall  
19          be punished by imprisonment in the custody of the Department of  
20          Corrections for not less than five (5) years and not to exceed  
21          twenty (20) years, and a fine of not more than Ten Thousand Dollars  
22          (\$10,000.00).

23          6.   Provided, however, a conviction from another state shall not  
24          be used to enhance punishment pursuant to the provisions of this

1 subsection if that conviction is based on a blood or breath alcohol  
2 concentration of less than eight-hundredths (0.08).

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

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

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

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

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

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

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

18 F. The Department of Public Safety is hereby authorized to  
19 reinstate any suspended or revoked driving privilege when the person  
20 meets the statutory requirements which affect the existing driving  
21 privilege.

22 G. Any person who is found guilty of a violation of the  
23 provisions of this section shall be ordered to participate in an  
24 alcohol and drug substance abuse evaluation and assessment program



1 offered by a certified assessment agency or certified assessor for  
2 the purpose of evaluating and assessing the receptivity to treatment  
3 and prognosis of the person and shall follow all recommendations  
4 made in the assessment and evaluation for treatment. The court  
5 shall order the person to reimburse the agency or assessor for the  
6 evaluation and assessment. Payment shall be remitted by the  
7 defendant or on behalf of the defendant by any third party;  
8 provided, no state-appropriated funds are utilized. The fee for an  
9 evaluation and assessment shall be the amount provided in subsection  
10 C of Section 3-460 of Title 43A of the Oklahoma Statutes. The  
11 evaluation and assessment shall be conducted at a certified  
12 assessment agency, the office of a certified assessor or at another  
13 location as ordered by the court. The agency or assessor shall,  
14 within seventy-two (72) hours from the time the person is evaluated  
15 and assessed, submit a written report to the court for the purpose  
16 of assisting the court in its sentencing determination. The court  
17 shall, as a condition of any sentence imposed, including deferred  
18 and suspended sentences, require the person to participate in and  
19 successfully complete all recommendations from the evaluation, such  
20 as an alcohol and substance abuse treatment program pursuant to  
21 Section 3-452 of Title 43A of the Oklahoma Statutes. If such report  
22 indicates that the evaluation and assessment shows that the  
23 defendant would benefit from a ten-hour or twenty-four-hour alcohol  
24 and drug substance abuse course or a treatment program or both, the

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

1 defendant fails or refuses to comply with an order of the court to  
2 obtain the evaluation and assessment, the Department of Public  
3 Safety shall not reinstate driving privileges until the defendant  
4 has complied in full with such order. Nothing contained in this  
5 subsection shall be construed to prohibit the court from ordering  
6 judgment and sentence and any other sanction authorized by law for  
7 failure or refusal to comply with an order of the court.

8 H. Any person who is found guilty of a violation of the  
9 provisions of this section may be required by the court to attend a  
10 victims impact panel program, as defined in subsection H of Section  
11 991a of Title 22 of the Oklahoma Statutes, if such a program is  
12 offered in the county where the judgment is rendered, and to pay a  
13 fee of not less than Fifteen Dollars (\$15.00) nor more than Sixty  
14 Dollars (\$60.00) as set by the governing authority of the program  
15 and approved by the court to the program to offset the cost of  
16 participation by the defendant, if in the opinion of the court the  
17 defendant has the ability to pay such fee. The court may  
18 alternatively permit the person to participate in a victims impact  
19 panel program offered online, as defined in subsection H of Section  
20 991a of Title 22 of the Oklahoma Statutes, and to pay a fee of not  
21 more than One Hundred Fifty Dollars (\$150.00) as set by the  
22 governing authority of the program and approved by the court, if in  
23 the opinion of the court, the defendant has the ability to pay such  
24 fee. For individuals deemed indigent by the court, the victims

1 impact panel program offered online may be provided at no charge to  
2 such indigent person.

3 I. Any person who is found guilty of a felony violation of the  
4 provisions of this section shall be required to submit to electronic  
5 monitoring as authorized and defined by Section 991a of Title 22 of  
6 the Oklahoma Statutes.

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

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

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

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

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

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

20           1. The results of any standardized field sobriety test  
21 including, but not limited to, the horizontal gaze nystagmus (HGN)  
22 test administered by a person who has completed training in  
23 standardized field sobriety testing; or  
24

1           2. Whether a person was under the influence of one or more  
2 impairing substances and the category of such impairing substance or  
3 substances. A witness who has received training and holds a current  
4 certification as a drug recognition expert shall be qualified to  
5 give the testimony in any case in which such testimony may be  
6 relevant.

7           SECTION 4. This act shall become effective November 1, 2019.

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