

1 **SENATE FLOOR VERSION**

2 March 1, 2017

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 377

6 By: Brecheen

7 [electronic monitoring - sentencing powers of the
8 courts - use of electronic monitoring of offenders -
9 effective date]

10
11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. AMENDATORY 22 O.S. 2011, Section 991a, as
13 last amended by Section 1, Chapter 157, O.S.L. 2014 (22 O.S. Supp.
14 2016, Section 991a), is amended to read as follows:

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

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

23 a. to provide restitution to the victim as provided by

24 Section 991f et seq. of this title or according to a

1 schedule of payments established by the sentencing
2 court, together with interest upon any pecuniary sum
3 at the rate of twelve percent (12%) per annum, if the
4 defendant agrees to pay such restitution or, in the
5 opinion of the court, if the defendant is able to pay
6 such restitution without imposing manifest hardship on
7 the defendant or the immediate family and if the
8 extent of the damage to the victim is determinable
9 with reasonable certainty,

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

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

21 d. to pay a reasonable sum into any trust fund,
22 established pursuant to the provisions of Sections 176
23 through 180.4 of Title 60 of the Oklahoma Statutes,
24 and which provides restitution payments by convicted

1 defendants to victims of crimes committed within this
2 state wherein such victim has incurred a financial
3 loss,

4 e. to confinement in the county jail for a period not to
5 exceed six (6) months,

6 f. to confinement as provided by law together with a term
7 of post-imprisonment community supervision for not
8 less than three (3) years of the total term allowed by
9 law for imprisonment, with or without restitution;
10 provided, however, the authority of this provision is
11 limited to Section 843.5 of Title 21 of the Oklahoma
12 Statutes when the offense involved sexual abuse or
13 sexual exploitation; Sections 681, 741 and 843.1 of
14 Title 21 of the Oklahoma Statutes when the offense
15 involved sexual abuse or sexual exploitation; and
16 Sections 865 et seq., 885, 886, 888, 891, 1021,
17 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and
18 1123 of Title 21 of the Oklahoma Statutes,

19 g. to repay the reward or part of the reward paid by a
20 local certified crime stoppers program and the
21 Oklahoma Reward System. In determining whether the
22 defendant shall repay the reward or part of the
23 reward, the court shall consider the ability of the
24 defendant to make the payment, the financial hardship

1 on the defendant to make the required payment, and the
2 importance of the information to the prosecution of
3 the defendant as provided by the arresting officer or
4 the district attorney with due regard for the
5 confidentiality of the records of the local certified
6 crime stoppers program and the Oklahoma Reward System.
7 The court shall assess this repayment against the
8 defendant as a cost of prosecution. The term
9 "certified" means crime stoppers organizations that
10 annually meet the certification standards for crime
11 stoppers programs established by the Oklahoma Crime
12 Stoppers Association to the extent those standards do
13 not conflict with state statutes. The term "court"
14 refers to all municipal and district courts within
15 this state. The "Oklahoma Reward System" means the
16 reward program established by Section 150.18 of Title
17 74 of the Oklahoma Statutes,

18 h. to reimburse the Oklahoma State Bureau of
19 Investigation for costs incurred by that agency during
20 its investigation of the crime for which the defendant
21 pleaded guilty, nolo contendere or was convicted,
22 including compensation for laboratory, technical, or
23 investigation services performed by the Bureau if, in
24 the opinion of the court, the defendant is able to pay

1 without imposing manifest hardship on the defendant,
2 and if the costs incurred by the Bureau during the
3 investigation of the defendant's case may be
4 determined with reasonable certainty,

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

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

- 1 k. to reimburse the court fund for amounts paid to court-
2 appointed attorneys for representing the defendant in
3 the case in which the person is being sentenced,
- 4 l. to participate in an assessment and evaluation by an
5 assessment agency or assessment personnel certified by
6 the Department of Mental Health and Substance Abuse
7 Services pursuant to Section 3-460 of Title 43A of the
8 Oklahoma Statutes and, as determined by the
9 assessment, participate in an alcohol and drug
10 substance abuse course or treatment program or both,
11 pursuant to Sections 3-452 and 3-453 of Title 43A of
12 the Oklahoma Statutes, or as ordered by the court,
- 13 m. to be placed in a victims impact panel program, as
14 defined in subsection H of this section, or
15 victim/offender reconciliation program and payment of
16 a fee to the program of not less than Fifteen Dollars
17 (\$15.00) nor more than Sixty Dollars (\$60.00) as set
18 by the governing authority of the program to offset
19 the cost of participation by the defendant. Provided,
20 each victim/offender reconciliation program shall be
21 required to obtain a written consent form voluntarily
22 signed by the victim and defendant that specifies the
23 methods to be used to resolve the issues, the
24 obligations and rights of each person, and the

1 confidentiality of the proceedings. Volunteer
2 mediators and employees of a victim/offender
3 reconciliation program shall be immune from liability
4 and have rights of confidentiality as provided in
5 Section 1805 of Title 12 of the Oklahoma Statutes,
6 n. 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 o. to be confined by electronic monitoring administered
8 and supervised by the Department of Corrections or a
9 community sentence provider, and payment of a
10 monitoring fee to the supervising authority, not to
11 exceed Three Hundred Dollars (\$300.00) per month. Any
12 fees collected pursuant to this paragraph shall be
13 deposited with the appropriate supervising authority.
14 Any willful violation of an order of the court for the
15 payment of the monitoring fee shall be a violation of
16 the sentence and may be punished as deemed proper by
17 the sentencing court. As used in this paragraph,
18 "electronic monitoring" means confinement of the
19 defendant within a specified location or locations
20 with supervision by means of an electronic device
21 approved by the Department of Corrections which is
22 designed to detect if the defendant is in the court-
23 ordered location at the required times and which

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

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

21 q. to submit to periodic testing for alcohol,
22 intoxicating substance, or controlled dangerous
23 substances by a qualified laboratory,
24

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

1 earned. The day fine shall be paid to the local
2 community sentencing system as reparation to the
3 community. Day fines shall be used to support the
4 local system,

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

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

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

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

19 dd. in the case of a person convicted of prostitution
20 pursuant to Section 1029 of Title 21 of the Oklahoma
21 Statutes, require such person to receive counseling
22 for the behavior which may have caused such person to
23 engage in prostitution activities. Such person may be
24 required to receive counseling in areas including but

1 not limited to alcohol and substance abuse, sexual
2 behavior problems, or domestic abuse or child abuse
3 problems,

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

1 the expense of the defendant based on the defendant's
2 ability to pay,

3 ff. in addition to other sentencing powers of the court,
4 the court in the case of a defendant being sentenced
5 for a felony conviction for a violation of Section 2-
6 402 of Title 63 of the Oklahoma Statutes which
7 involves marijuana may require the person to
8 participate in a drug court program, if available. If
9 a drug court program is not available, the defendant
10 may be required to participate in a community
11 sanctions program, if available,

12 gg. in the case of a person convicted of any false or
13 bogus check violation, as defined in Section 1541.4 of
14 Title 21 of the Oklahoma Statutes, impose a fee of
15 Twenty-five Dollars (\$25.00) to the victim for each
16 check, and impose a bogus check fee to be paid to the
17 district attorney. The bogus check fee paid to the
18 district attorney shall be equal to the amount
19 assessed as court costs plus Twenty-five Dollars
20 (\$25.00) for each check upon filing of the case in
21 district court. This money shall be deposited in the
22 Bogus Check Restitution Program Fund as established in
23 subsection B of Section 114 of this title.

24 Additionally, the court may require the offender to

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

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

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

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

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

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

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

1 Fund established by Section 150.19a of Title 74 of the Oklahoma
2 Statutes;

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

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

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

21 b. to attend a victims impact panel program, as defined
22 in subsection H of this section, if such a program is
23 offered in the county where the judgment is rendered,
24 and to pay a fee of not less than Fifteen Dollars

1 (\$15.00) nor more than Sixty Dollars (\$60.00) as set
2 by the governing authority of the program and approved
3 by the court, to the program to offset the cost of
4 participation by the defendant, if in the opinion of
5 the court the defendant has the ability to pay such
6 fee,

7 c. to both participate in the alcohol and drug substance
8 abuse course or treatment program, pursuant to
9 subparagraph a of this paragraph and attend a victims
10 impact panel program, pursuant to subparagraph b of
11 this paragraph,

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

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

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

19 8. In addition to the other sentencing powers of the court, in
20 the case of a person convicted of prostitution pursuant to Section
21 1029 of Title 21 of the Oklahoma Statutes, require such person to
22 receive counseling for the behavior which may have caused such
23 person to engage in prostitution activities. Such person may be
24 required to receive counseling in areas including but not limited to

1 alcohol and substance abuse, sexual behavior problems, or domestic
2 abuse or child abuse problems;

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

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

23 11. In addition to the other sentencing powers of the court,
24 the court, in the case of a person convicted of child abuse or

1 neglect, as defined in Section 1-1-105 of Title 10A of the Oklahoma
2 Statutes, may require the person to undergo treatment or to
3 participate in counseling services. The defendant may be required
4 to pay all or part of the cost of the treatment or counseling
5 services;

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

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

20 14. In addition to the other sentencing powers of the court, in
21 the case of a sex offender who is required by law to register
22 pursuant to the Sex Offenders Registration Act, the court may
23 prohibit the person from accessing or using any Internet social
24 networking ~~web-site~~ website that has the potential or likelihood of

1 allowing the sex offender to have contact with any child who is
2 under the age of eighteen (18) years; ~~or~~

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

11 16. In addition to the other sentencing powers of the court, in
12 the case of an offender being convicted of a misdemeanor drug
13 offense, the court may recommend the offender to be eligible for a
14 twelve-month program within misdemeanor drug court. The program may
15 include progressive sanctions that shall be recognized as part of
16 the offender's treatment plan. Approved sanctions shall include,
17 but not be limited to:

- 18 a. real-time global position monitoring (GPS) that may be
19 used in conjunction with daily reporting requirements,
20 b. community service,
21 c. increased substance abuse testing, or
22 d. confinement in the home of the offender or other
23 suitable location, or given permission for a pre-
24 approved schedule with mobility.

1 Upon a recommendation by the court, the offender may be
2 supervised by electronic monitoring administered by the county
3 sheriff or the court designee. Provided, the sheriff or court
4 designee has the capacity to electronically monitor the offender
5 twenty-four (24) hours per day, seven (7) days per week with real-
6 time monitoring that shall immediately notify the sheriff or
7 designee of the court of a violation of the confinement order. A
8 sheriff or designee of the court may contract for such electronic
9 monitoring with a private vendor. The private vendor shall have the
10 capacity to electronically monitor offenders twenty-four (24) hours
11 a day, seven (7) days a week with real-time monitoring that utilizes
12 two separate monitoring technologies with automatic rollover
13 capabilities for redundancy, and that immediately notifies the
14 sheriff or designee of the sheriff of a violation of the terms of
15 confinement. The court shall designate the specific locations of
16 confinement and the rules of confinement. The court may revoke the
17 order for electronic monitoring at any time for a violation of the
18 order. As used in this paragraph, "electronic monitoring" means
19 confinement of the offender within a specified location or locations
20 with supervision by means of an electronic device which is designed
21 to detect if the offender is in the court-ordered location at the
22 required time and record any violations of the confinement order.
23 While the offender is electronically confined within a specified
24 location or locations the offender shall be responsible for his or

1 her living expenses, including medical care and treatment expenses.
2 The county shall bear no liability for such living and medical care
3 and treatment expenses of the offender. If the offender is unable
4 to assume such responsibility, the offender shall not be eligible
5 for electronic monitoring.

6 If the offender is confined in a specific location or locations
7 under electronic supervision as ordered by the court pursuant to
8 this paragraph, the state may reimburse the county or the court in
9 an amount not to exceed Twenty Dollars (\$20.00) per day for each
10 offender during such period of monitoring. The proceeds of this
11 reimbursement shall be used to defray expenses relating to
12 monitoring offenders who are on electronic monitoring.

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

1 shall be conducted at a certified assessment agency, the office of a
2 certified assessor or at another location as ordered by the court.
3 The agency or assessor shall, within seventy-two (72) hours from the
4 time the person is assessed, submit a written report to the court
5 for the purpose of assisting the court in its final sentencing
6 determination. No person, agency or facility operating an alcohol
7 and drug substance abuse evaluation program certified by the
8 Department of Mental Health and Substance Abuse Services shall
9 solicit or refer any person evaluated pursuant to this subsection
10 for any treatment program or alcohol and drug substance abuse
11 service in which such person, agency or facility has a vested
12 interest; however, this provision shall not be construed to prohibit
13 the court from ordering participation in or any person from
14 voluntarily utilizing a treatment program or alcohol and drug
15 substance abuse service offered by such person, agency or facility.
16 If a person is sentenced to the custody of the Department of
17 Corrections and the court has received a written evaluation report
18 pursuant to this subsection, the report shall be furnished to the
19 Department of Corrections with the judgment and sentence. Any
20 evaluation report submitted to the court pursuant to this subsection
21 shall be handled in a manner which will keep such report
22 confidential from the general public's review. Nothing contained in
23 this subsection shall be construed to prohibit the court from
24 ordering judgment and sentence in the event the defendant fails or

1 refuses to comply with an order of the court to obtain the
2 evaluation required by this subsection.

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

23

24

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

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

24

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

7 G. 1. The Department of Corrections is hereby authorized,
8 subject to funds available through appropriation by the Legislature,
9 to contract with counties for the administration of county Community
10 Service Sentencing Programs.

11 2. Any offender eligible to participate in the Program pursuant
12 to ~~this act~~ Section 991a et seq. of this title shall be eligible to
13 participate in a county Program; provided, participation in county-
14 funded Programs shall not be limited to offenders who would
15 otherwise be sentenced to confinement with the Department of
16 Corrections.

17 3. The Department shall establish criteria and specifications
18 for contracts with counties for such Programs. A county may apply
19 to the Department for a contract for a county-funded Program for a
20 specific period of time. The Department shall be responsible for
21 ensuring that any contracting county complies in full with
22 specifications and requirements of the contract. The contract shall
23 set appropriate compensation to the county for services to the
24 Department.

1 4. The Department is hereby authorized to provide technical
2 assistance to any county in establishing a Program, regardless of
3 whether the county enters into a contract pursuant to this
4 subsection. Technical assistance shall include appropriate
5 staffing, development of community resources, sponsorship,
6 supervision and any other requirements.

7 5. The Department shall annually make a report to the Governor,
8 the President Pro Tempore of the Senate and the Speaker of the House
9 on the number of such Programs, the number of participating
10 offenders, the success rates of each Program according to criteria
11 established by the Department and the costs of each Program.

12 H. As used in this section:

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

18 2. "Electronically monitored home detention" means
19 incarceration of the defendant within a specified location or
20 locations with monitoring by means of a device approved by the
21 Department of Corrections that detects if the person leaves the
22 confines of any specified location; and

23 3. "Victims impact panel program" means a meeting with at least
24 one live presenter who will share personal stories with participants

1 about how alcohol, drug abuse and the illegal conduct of others has
2 personally impacted the life of the presenter. A victims impact
3 panel program shall be attended by persons who have committed the
4 offense of driving, operating or being in actual physical control of
5 a motor vehicle while under the influence of alcohol or other
6 intoxicating substance. Persons attending a victims impact panel
7 program shall be required to pay a fee of not less than Fifteen
8 Dollars (\$15.00) nor more than Sixty Dollars (\$60.00) to the
9 provider of the program. A certificate of completion shall be
10 issued to the person upon satisfying the attendance and fee
11 requirements of the victims impact panel program. A victims impact
12 panel program shall not be provided by any certified assessment
13 agency or certified assessor. The provider of the victims impact
14 panel program shall carry general liability insurance and maintain
15 an accurate accounting of all business transactions and funds
16 received in relation to the victims impact panel program.

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

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

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

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

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

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

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

20 SECTION 2. This act shall become effective November 1, 2017.

21 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
22 March 1, 2017 - DO PASS AS AMENDED
23
24