

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 SENATE BILL 412

By: Brinkley

4  
5  
6 AS INTRODUCED

7 An Act relating to violent crime; amending 57 O.S.  
8 2011, Section 571, which relates to definitions;  
9 redefining what offenses are violent crimes; amending  
10 22 O.S. 2011, Section 18, as last amended by Section  
11 1, Chapter 374, O.S.L. 2014 (22 O.S. Supp. 2014,  
12 Section 18), which relates to expungement of records;  
13 modifying inclusions; amending 22 O.S. 2011, Section  
14 988.2, which relates to definitions for duties of  
15 Chief Judge; modifying inclusions; amending 47 O.S.  
16 2011, Section 11-1402, which relates to enforcement  
17 of laws, costs and authority of other entities;  
18 modifying definition; amending 57 O.S. 2011, Section  
19 510.9, as amended by Section 1, Chapter 146, O.S.L.  
20 2013 (57 O.S. Supp. 2014, Section 510.9), which  
21 relates to electronic monitoring; modifying  
22 inclusions; amending 70 O.S. 2011, Section 24-101.3,  
23 as amended by Section 26, Chapter 404, O.S.L. 2013  
24 (70 O.S. Supp. 2014, Section 24-101.3), which relates  
to out-of-school suspensions; modifying inclusions;  
amending 74 O.S. 2011, Section 150.2, which relates  
to the powers and duties of the Oklahoma State Bureau  
of Investigation; modifying inclusions; and providing  
an effective date.

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

SECTION 1. AMENDATORY 57 O.S. 2011, Section 571, is  
amended to read as follows:

1 Section 571. As used in the Oklahoma Statutes, unless another  
2 definition is specified:

3 1. "Capacity" means the actual available bedspace as certified  
4 by the State Board of Corrections subject to applicable federal and  
5 state laws and the rules and regulations promulgated under such  
6 laws;

7 2. ~~"Nonviolent offense"~~ "Violent crime" means any of the  
8 following felony ~~offense except the following, or offenses and~~ any  
9 attempts to commit or conspiracy or solicitation to commit the  
10 following crimes:

11 a. assault, battery, or assault and battery with a  
12 dangerous or deadly weapon;

13 b. shooting with intent to kill, assault, battery, or  
14 assault and battery with a deadly weapon or by other  
15 means likely to produce death or great bodily harm, as  
16 provided for in Section 652 of the Oklahoma Statutes;

17 c. aggravated assault and battery on a police officer,  
18 sheriff, highway patrolman, or any other officer of  
19 the law;

20 ~~e.~~ d. poisoning with intent to kill;

21 ~~d.~~ e. shooting with intent to kill;

22 ~~e.~~ f. assault with intent to kill;

23 ~~f.~~ g. assault with intent to commit a felony;

24 ~~g.~~ h. assaults while masked or disguised;

- 1           ~~h.~~ i. murder in the first degree;
- 2           ~~i.~~ j. murder in the second degree;
- 3           ~~j.~~ k. manslaughter in the first degree;
- 4           ~~k.~~ l. manslaughter in the second degree;
- 5           ~~l.~~ m. kidnapping;
- 6           ~~m.~~ n. burglary in the first degree;
- 7           ~~n.~~ o. burglary with explosives;
- 8           ~~o.~~ p. kidnapping for extortion;
- 9           ~~p.~~ q. maiming;
- 10          ~~q.~~ r. robbery;
- 11          ~~r.~~ s. robbery in the first degree;
- 12          ~~s.~~ t. robbery in the second degree;
- 13          ~~t.~~ u. armed robbery;
- 14          ~~u.~~ v. robbery by two (2) or more persons;
- 15          ~~v.~~ w. robbery with dangerous weapon or imitation firearm;
- 16          ~~w.~~ x. child abuse;
- 17          ~~x.~~ y. wiring any equipment, vehicle or structure with
- 18                   explosives;
- 19          ~~y.~~ z. forcible sodomy;
- 20          ~~z.~~
- 21          aa. rape in the first degree;
- 22          ~~aa.~~
- 23          bb. rape in the second degree;
- 24          ~~bb.~~

1        cc.    rape by instrumentation;  
2        ~~ee.~~  
3        dd.    lewd or indecent proposition or lewd or indecent act  
4                with a child;  
5        ~~dd.~~  
6        ee.    use of a firearm or offensive weapon to commit or  
7                attempt to commit a felony;  
8        ~~ee.~~  
9        ff.    pointing firearms;  
10       ~~ff.~~  
11       gg.    rioting;  
12       ~~gg.~~  
13       hh.    inciting to riot;  
14       ~~hh.~~  
15       ii.    arson in the first degree;  
16       ~~ii.~~  
17       jj.    injuring or burning public buildings;  
18       ~~jj.~~  
19       kk.    sabotage;  
20       ~~kk.~~  
21       ll.    criminal syndicalism;  
22       ~~ll.~~  
23       mm.    extortion;  
24       ~~mm.~~

- 1        nn.     obtaining signature by extortion;
- 2        ~~nn.~~
- 3        oo.     seizure of a bus, discharging firearm or hurling
- 4                missile at bus;
- 5        ~~oo.~~
- 6        pp.     mistreatment of a mental patient; ~~oe~~
- 7        ~~pp.~~
- 8        qq.     using a vehicle to facilitate the discharge of a
- 9                weapon pursuant to Section 652 of Title 21 of the
- 10                Oklahoma Statutes;
- 11        rr.     bombing offenses as defined in Section 1767.1 of Title
- 12                21 of the Oklahoma Statutes;
- 13        ss.     child pornography or aggravated child pornography as
- 14                defined in Section 1021.2, 1021.3, 1024.1 or 1040.12a
- 15                of Title 21 of the Oklahoma Statutes;
- 16        tt.     child prostitution as defined in Section 1030 of Title
- 17                21 of the Oklahoma Statutes;
- 18        uu.     abuse of a vulnerable adult as defined in Section 10-
- 19                103 of Title 43A of the Oklahoma Statutes who is a
- 20                resident of a nursing facility;
- 21        vv.     aggravated trafficking as provided for in subsection C
- 22                of Section 2-415 of Title 63 of the Oklahoma Statutes;
- 23        ww.     aggravated assault and battery upon any person
- 24                defending another person from assault and battery;

1           xx. human trafficking as provided for in Section 748 of  
2           Title 21 of the Oklahoma Statutes; or

3           yy. terrorism crimes as provided in Sections 1268 et seq.  
4           of Title 21 of the Oklahoma Statutes.

5           Such offenses shall constitute exceptions to nonviolent offenses  
6           pursuant to Article VI, Section 10 of the Oklahoma Constitution.

7           SECTION 2.           AMENDATORY           22 O.S. 2011, Section 18, as last  
8 amended by Section 1, Chapter 374, O.S.L. 2014 (22 O.S. Supp. 2014,  
9 Section 18), is amended to read as follows:

10           Section 18. A. Persons authorized to file a motion for  
11 expungement, as provided herein, must be within one of the following  
12 categories:

13           1. The person has been acquitted;

14           2. The conviction was reversed with instructions to dismiss by  
15 an appellate court of competent jurisdiction, or an appellate court  
16 of competent jurisdiction reversed the conviction and the district  
17 attorney subsequently dismissed the charge;

18           3. The factual innocence of the person was established by the  
19 use of deoxyribonucleic acid (DNA) evidence subsequent to  
20 conviction, including a person who has been released from prison at  
21 the time innocence was established;

22           4. The person has received a full pardon on the basis of a  
23 written finding by the Governor of actual innocence for the crime  
24 for which the claimant was sentenced;

1           5. The person was arrested and no charges of any type,  
2 including charges for an offense different than that for which the  
3 person was originally arrested, are filed and the statute of  
4 limitations has expired or the prosecuting agency has declined to  
5 file charges;

6           6. The person was under eighteen (18) years of age at the time  
7 the offense was committed and the person has received a full pardon  
8 for the offense;

9           7. The person was charged with one or more misdemeanor or  
10 felony crimes, all charges have been dismissed, the person has never  
11 been convicted of a felony, no misdemeanor or felony charges are  
12 pending against the person, and the statute of limitations for  
13 refiling the charge or charges has expired or the prosecuting agency  
14 confirms that the charge or charges will not be refiled; provided,  
15 however, this category shall not apply to charges that have been  
16 dismissed following the completion of a deferred judgment or delayed  
17 sentence;

18           8. The person was charged with a misdemeanor, the charge was  
19 dismissed following the successful completion of a deferred judgment  
20 or delayed sentence, the person has never been convicted of a  
21 misdemeanor or felony, no misdemeanor or felony charges are pending  
22 against the person, and at least one (1) year has passed since the  
23 charge was dismissed;

24

1           9. The person was charged with a nonviolent felony offense, ~~as~~  
2 ~~set forth~~ not listed in Section 571 of Title 57 of the Oklahoma  
3 Statutes, the charge was dismissed following the successful  
4 completion of a deferred judgment or delayed sentence, the person  
5 has never been convicted of a misdemeanor or felony, no misdemeanor  
6 or felony charges are pending against the person, and at least ten  
7 (10) years have passed since the charge was dismissed;

8           10. The person was convicted of a misdemeanor offense, the  
9 person has not been convicted of a felony, no felony or misdemeanor  
10 charges are pending against the person, and at least ten (10) years  
11 have passed since the end of the last misdemeanor sentence;

12           11. The person was convicted of a nonviolent felony offense, ~~as~~  
13 ~~defined~~ not listed in Section 571 of Title 57 of the Oklahoma  
14 Statutes, the person has received a full pardon for the offense, the  
15 person has not been convicted of any other felony, the person has  
16 not been convicted of a separate misdemeanor in the last fifteen  
17 (15) years, no felony or misdemeanor charges are pending against the  
18 person, and at least ten (10) years have passed since the felony  
19 conviction; or

20           12. The person has been charged or arrested or is the subject  
21 of an arrest warrant for a crime that was committed by another  
22 person who has appropriated or used the person's name or other  
23 identification without the person's consent or authorization.

24

1 B. For purposes of this act, "expungement" shall mean the  
2 sealing of criminal records.

3 C. For purposes of seeking an expungement under the provisions  
4 of paragraph 10 or 11 of subsection A of this section, offenses  
5 arising out of the same transaction or occurrence shall be treated  
6 as one conviction and offense.

7 D. Records expunged pursuant to paragraphs 8, 9, 10, 11 and 12  
8 of subsection A of this section shall be sealed to the public but  
9 not to law enforcement agencies for law enforcement purposes.  
10 Records expunged pursuant to paragraphs 8, 9, 10 and 11 of  
11 subsection A of this section shall be admissible in any subsequent  
12 criminal prosecution to prove the existence of a prior conviction or  
13 prior deferred judgment without the necessity of a court order  
14 requesting the unsealing of the records. Records expunged pursuant  
15 to paragraph 4, 6 or 11 of subsection A of this section may also  
16 include the sealing of Pardon and Parole Board records related to an  
17 application for a pardon. Such records shall be sealed to the  
18 public but not to the Pardon and Parole Board.

19 SECTION 3. AMENDATORY 22 O.S. 2011, Section 988.2, is  
20 amended to read as follows:

21 Section 988.2. A. For purposes of the Oklahoma Community  
22 Sentencing Act:

23 1. "Local community sentencing system" means a partnership  
24 between the state and one or more county governments which uses

1 public and private entities to deliver services to the sentencing  
2 court for punishment of eligible felony offenders under the  
3 authority of a community sentence;

4 2. "Community sentence" or "community punishment" means a  
5 punishment imposed by the court as a condition of a deferred or  
6 suspended sentence for an eligible offender;

7 3. "Continuum of sanctions" means a variety of coercive  
8 measures and treatment options ranked by degrees of public safety,  
9 punitive effect, and cost benefit which are available to the  
10 sentencing judge as punishment for criminal conduct;

11 4. "Community sentencing system planning council" or "planning  
12 council" means a group of citizens and elected officials specified  
13 by law or appointed by the Chief Judge of the Judicial District  
14 which plans the local community sentencing system and with the  
15 assistance of the Community Sentencing Division of the Department of  
16 Corrections locates treatment providers and resources to support the  
17 local community sentencing system;

18 5. "Incentive" means a court-ordered reduction in the terms or  
19 conditions of a community sentence which is given for exceptional  
20 performance or progress by the offender;

21 6. "Disciplinary sanction" means a court-ordered punishment in  
22 response to a technical or noncompliance violation of a community  
23 sentence which increases in intensity or duration with each  
24 successive violation;

1       7. "Division" means the Community Sentencing Division within  
2 the Department of Corrections which is the state administration  
3 agency for the Oklahoma Community Sentencing Act, the statewide  
4 community sentencing system, and all local community sentencing  
5 systems;

6       8. "Eligible offender" means a felony offender who has been  
7 convicted of or who has entered a plea other than not guilty to a  
8 felony offense and who upon completion of a Level of Services  
9 Inventory or another assessment instrument has been found to be in a  
10 range other than the low range, who has been convicted of at least  
11 one prior felony, and who is not otherwise prohibited by law;  
12 provided, however, that no person who has been convicted of or who  
13 has entered a plea other than not guilty to an offense enumerated in  
14 subsection 5 of Section 571 of Title 57 of the Oklahoma Statutes, ~~as~~  
15 ~~an exception to the definition of "nonviolent offense"~~ shall be  
16 eligible for a community sentence or community punishment unless the  
17 district attorney or an assistant district attorney for the district  
18 in which the offender's conviction was obtained consents thereto.  
19 The district attorney may consent to eligibility for an offender who  
20 has a mental illness or a developmental disability or a co-occurring  
21 mental illness and substance abuse disorder and who scores in the  
22 low range on the LSI or another assessment instrument if the  
23 offender is not otherwise prohibited by law. Any consent by a  
24

1 district attorney shall be made a part of the record of the case;  
2 and

3 9. "Statewide community sentencing system" means a network of  
4 all counties through their respective local community sentencing  
5 systems serving the state judicial system and offering support  
6 services to each other through reciprocal and interlocal agreements  
7 and interagency cooperation.

8 B. For the purposes of the Oklahoma Community Sentencing Act,  
9 if a judicial district does not have a Chief Judge or if a judicial  
10 district has more than one Chief Judge, the duties of the Chief  
11 Judge provided for in the Oklahoma Community Sentencing Act shall be  
12 performed by the Presiding Judge of the Judicial Administrative  
13 District.

14 SECTION 4. AMENDATORY 47 O.S. 2011, Section 11-1402, is  
15 amended to read as follows:

16 Section 11-1402. A. Except as otherwise provided in this  
17 section, enforcement of both traffic laws and the general laws of  
18 the State of Oklahoma on the turnpikes shall be the exclusive  
19 authority of the Department of Public Safety, and the cost thereof  
20 shall be borne by the Oklahoma Turnpike Authority. Provided that  
21 the Authority shall be liable only for such costs as may be agreed  
22 to by it under contract or agreement with the Commissioner of Public  
23 Safety.

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1 B. Upon a written request by the Department of Wildlife  
2 Conservation to the Commissioner of Public Safety, the Department of  
3 Public Safety, upon the approval of the Commissioner of Public  
4 Safety, may enter into a written agreement with the Department of  
5 Wildlife Conservation permitting the Department of Wildlife  
6 Conservation to perform on the turnpikes of this state those law  
7 enforcement duties specified in the agreement. The request by the  
8 Department of Wildlife Conservation must be acted upon by the  
9 Commissioner within sixty (60) days of receiving such request. The  
10 costs of performing those law enforcement duties shall be the  
11 responsibility of the Department of Wildlife Conservation and no  
12 costs shall be the responsibility of the Oklahoma Turnpike Authority  
13 or the Department of Public Safety.

14 C. On the turnpikes, the Oklahoma State Bureau of Investigation  
15 shall have the authority to investigate and enforce all laws  
16 relating to any crime listed ~~as an exception to the definition of~~  
17 ~~"nonviolent offense" as set forth~~ in Section 571 of Title 57 of the  
18 Oklahoma Statutes.

19 SECTION 5. AMENDATORY 57 O.S. 2011, Section 510.9, as  
20 amended by Section 1, Chapter 146, O.S.L. 2013 (57 O.S. Supp. 2014,  
21 Section 510.9), is amended to read as follows:

22 Section 510.9. A. There is hereby created the Electronic  
23 Monitoring Program for inmates in the custody of the Department of  
24 Corrections who are sentenced for a nonviolent offense ~~as~~ not

1 included as a violent offense defined by in Section 571 of this  
2 title. The Department is authorized to use an electronic monitoring  
3 global positioning device to satisfy its custody duties and  
4 responsibilities.

5 B. After an inmate has been processed and received through a  
6 Department Assessment and Reception Center, has been incarcerated  
7 for a minimum of ninety (90) days, and has met the criteria  
8 established in subsection C of Section 521 of this title, the  
9 Director of the Department of Corrections may assign the inmate, if  
10 eligible, to the Electronic Monitoring Program. Nothing shall  
11 prohibit the Director from assigning an inmate to the Electronic  
12 Monitoring Program while assigned to the accredited halfway house or  
13 transitional living facility. The following inmates, youthful  
14 offenders, and juveniles shall not be eligible for assignment to the  
15 program:

16 1. Any inmate serving a sentence of more than five (5) years  
17 who has eleven (11) months or more left on the sentence or any  
18 inmate serving a sentence of five (5) years or less whose initial  
19 custody assessment requires placement above the minimum security  
20 level;

21 2. Inmates convicted of a violent offense within the previous  
22 ten (10) years;

23

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1           3. Inmates convicted of any violation of the provisions of the  
2 Trafficking in Illegal Drugs Act, Section 2-414 et seq. of Title 63  
3 of the Oklahoma Statutes;

4           4. Inmates denied parole within the previous twelve (12) months  
5 pursuant to Section 332.7 of this title;

6           5. Inmates convicted pursuant to Section 11-902 of Title 47 of  
7 the Oklahoma Statutes who are not receptive to substance abuse  
8 treatment and follow-up treatment;

9           6. Inmates removed from the Electronic Monitoring Program or  
10 any other alternative to incarceration authorized by law for  
11 violation of any rule or condition of the program and reassigned to  
12 imprisonment in a correctional facility;

13           7. Inmates deemed by the Department to be a security risk or  
14 threat to the public;

15           8. Inmates requiring educational, medical or other services or  
16 programs not available in a community setting as determined by the  
17 Department;

18           9. Inmates convicted of any violation of subsection C of  
19 Section 644 of Title 21 of the Oklahoma Statutes or who have an  
20 active protection order that was issued under the Protection from  
21 Domestic Abuse Act, Sections 60 through 60.16 of Title 22 of the  
22 Oklahoma Statutes;

23           10. Inmates who have outstanding felony warrants or detainers  
24 from another jurisdiction;

1 11. Inmates convicted of a sex offense who, upon release from  
2 incarceration, would be required by law to register pursuant to the  
3 Sex Offender Registration Act;

4 12. Inmates convicted of racketeering activity as defined in  
5 Section 1402 of Title 22 of the Oklahoma Statutes;

6 13. Inmates convicted pursuant to subsection F of Section 2-401  
7 of Title 63 of the Oklahoma Statutes;

8 14. Inmates convicted pursuant to Section 650 of Title 21 of  
9 the Oklahoma Statutes;

10 15. Inmates who have escaped from a penal or correctional  
11 institution within the previous ten (10) years; or

12 16. Inmates who currently have active misconduct actions on  
13 file with the Department of Corrections.

14 C. Every eligible inmate assigned to the Electronic Monitoring  
15 Program shall remain in such program until one of the following  
16 conditions has been met:

17 1. The inmate discharges the term of the sentence;

18 2. The inmate is removed from the Electronic Monitoring Program  
19 for violation of any rule or condition of the program and reassigned  
20 to imprisonment in a correctional facility; or

21 3. The inmate is paroled by the Governor pursuant to Section  
22 332.7 of this title.

23 D. After an inmate has been assigned to the Electronic  
24 Monitoring Program, denial of parole pursuant to Section 332.7 of

1 this title, shall not be cause for removal from the program,  
2 provided the inmate has not violated the rules or conditions of the  
3 program. The inmate may remain assigned to the program, if  
4 otherwise eligible, until the completion of the sentence.

5 E. The Electronic Monitoring Program shall require active  
6 supervision of the inmate in a community setting by a correctional  
7 officer or other employee of the Department of Corrections with  
8 monitoring by a global positioning device approved by the Department  
9 under such rules and conditions as may be established by the  
10 Department. If an inmate violates any rule or condition of the  
11 program, the Department may take necessary disciplinary action  
12 consistent with the rules established pursuant to this section,  
13 including reassignment to a higher level of security or removing the  
14 inmate from the program with reassignment to imprisonment in a  
15 correctional facility. Any inmate who escapes from the Electronic  
16 Monitoring Program shall be subject to the provisions of Section 443  
17 of Title 21 of the Oklahoma Statutes.

18 F. Upon an inmate assigned to the Electronic Monitoring Program  
19 becoming eligible for parole consideration, pursuant to Section  
20 332.7 of this title, the Department of Corrections shall deliver the  
21 inmate, in person, to a correctional facility for interview,  
22 together with any Department records necessary for the Pardon and  
23 Parole Board's investigation. Inmates assigned to the Electronic  
24

1 Monitoring Program shall not be allowed to waive consideration or  
2 recommendation for parole.

3 G. Prior to placement of any eligible inmate assigned to the  
4 Electronic Monitoring Program being placed in a community setting,  
5 the Department of Corrections shall deliver a written notification  
6 to the sheriff and district attorney of the county, and the chief  
7 law enforcement officer of any incorporated city or town in which  
8 the inmate is to be monitored and supervised under the program. The  
9 district attorney shall disseminate such information to victims of  
10 the crime for which the inmate is serving sentence, if any, when the  
11 victims are known to live in the same city, town or county.

12 H. An inmate assigned to the Electronic Monitoring Program may  
13 be required to pay the Department of Corrections for all or part of  
14 any monitoring equipment or fee, substance abuse treatment program  
15 or follow-up treatment expense, supervision cost, or other costs  
16 while assigned to the program. The Department shall determine  
17 whether the inmate has the ability to pay all or part of such fee or  
18 costs.

19 I. The Department of Corrections shall promulgate and adopt  
20 rules and procedures necessary to implement the Electronic  
21 Monitoring Program, including but not limited to methods of  
22 monitoring and supervision, disciplinary action, reassignment to  
23 higher and lower security levels, removal from the program, and  
24

1 costs of monitoring and supervision to be paid by the inmate, if  
2 any.

3 J. An inmate assigned to the Electronic Monitoring Program  
4 shall, within thirty (30) days of being placed in a community  
5 setting, report to the court clerk and the district attorney of the  
6 county from which the judgment and sentence resulting in  
7 incarceration arose to address payment of any fines, costs,  
8 restitution and assessments owed by the inmate, if any.

9 SECTION 6. AMENDATORY 70 O.S. 2011, Section 24-101.3, as  
10 amended by Section 26, Chapter 404, O.S.L. 2013 (70 O.S. Supp. 2014,  
11 Section 24-101.3) is amended to read as follows:

12 Section 24-101.3. A. Any student who is guilty of an act  
13 described in paragraph 1 of subsection C of this section may be  
14 suspended out-of-school in accordance with the provisions of this  
15 section. Each school district board of education shall adopt a  
16 policy with procedures which provides for out-of-school suspension  
17 of students. The policy shall address the term of the out-of-school  
18 suspension, provide an appeals process as described in subsection B  
19 of this section, and provide that before a student is suspended out-  
20 of-school, the school or district administration shall consider and  
21 apply, if appropriate, alternative in-school placement options that  
22 are not to be considered suspension, such as placement in an  
23 alternative school setting, reassignment to another classroom, or  
24 in-school detention. The policy shall address education for

1 students subject to the provisions of subsection D of this section  
2 and whether participation in extracurricular activities shall be  
3 permitted.

4 B. 1. Students suspended out-of-school for ten (10) or fewer  
5 days shall have the right to appeal the decision of the  
6 administration as provided in the policy required in subsection A of  
7 this section. The policy shall specify whether appeals for short-  
8 term suspensions as provided in this subsection shall be to a local  
9 committee composed of district administrators or teachers or both,  
10 or to the district board of education. Upon full investigation of  
11 the matter, the committee or board shall determine the guilt or  
12 innocence of the student and the reasonableness of the term of the  
13 out-of-school suspension. If the policy requires appeals for short-  
14 term suspensions to a committee, the policy adopted by the board  
15 may, but is not required to, provide for appeal of the committee's  
16 decision to the board.

17 2. Students suspended out-of-school for more than ten (10) days  
18 and students suspended pursuant to the provisions of paragraph 2 of  
19 subsection C of this section may request a review of the suspension  
20 with the administration of the district. If the administration does  
21 not withdraw the suspension, the student shall have the right to  
22 appeal the decision of the administration to the district board of  
23 education. Except as otherwise provided for in paragraph 2 of  
24 subsection C of this section, no out-of-school suspension shall

1 extend beyond the current semester and the succeeding semester.  
2 Upon full investigation of the matter, the board shall determine the  
3 guilt or innocence of the student and the reasonableness of the term  
4 of the out-of-school suspension. A board of education may conduct  
5 the hearing and render the final decision or may appoint a hearing  
6 officer to conduct the hearing and render the final decision. The  
7 decision of the district board of education or the hearing officer,  
8 if applicable, shall be final.

9 C. 1. Students who are guilty of any of the following acts may  
10 be suspended out-of-school by the administration of the school or  
11 district:

- 12 a. violation of a school regulation,
- 13 b. possession of an intoxicating beverage, low-point  
14 beer, as defined by Section 163.2 of Title 37 of the  
15 Oklahoma Statutes, or missing or stolen property if  
16 the property is reasonably suspected to have been  
17 taken from a student, a school employee, or the school  
18 during school activities, and
- 19 c. possession of a dangerous weapon or a controlled  
20 dangerous substance while on or within two thousand  
21 (2,000) feet of public school property, or at a school  
22 event, as defined in the Uniform Controlled Dangerous  
23 Substances Act. Possession of a firearm shall result

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1 in out-of-school suspension as provided in paragraph 2  
2 of this subsection.

3 2. Any student found in possession of a firearm while on any  
4 public school property or while in any school bus or other vehicle  
5 used by a public school for transportation of students or teachers  
6 shall be suspended out-of-school for a period of not less than one  
7 (1) year, to be determined by the district board of education  
8 pursuant to the provisions of this section. The term of the  
9 suspension may be modified by the district superintendent on a case-  
10 by-case basis. For purposes of this paragraph the term "firearm"  
11 shall mean and include all weapons as defined by 18 U.S.C., Section  
12 921.

13 3. Any student in grades six through twelve found to have  
14 assaulted, attempted to cause physical bodily injury, or acted in a  
15 manner that could reasonably cause bodily injury to a school  
16 employee or a person volunteering for a school as prohibited  
17 pursuant to Section 6-146 of this title shall be suspended for the  
18 remainder of the current semester and the next consecutive semester,  
19 to be determined by the board of education pursuant to the  
20 provisions of this section. The term of the suspension may be  
21 modified by the district superintendent on a case-by-case basis.

22 D. At its discretion a school district may provide an education  
23 plan for students suspended out-of-school for five (5) or fewer days  
24 pursuant to the provisions of this subsection. The following

1 provisions shall apply to students who are suspended out-of-school  
2 for more than five (5) days and who are guilty of acts listed in  
3 subparagraphs a and b of paragraph 1 of subsection C of this  
4 section. Upon the out-of-school suspension, the parent or guardian  
5 of a student suspended out-of-school pursuant to the provisions of  
6 this subsection shall be responsible for the provision of a  
7 supervised, structured environment in which the parent or guardian  
8 shall place the student and bear responsibility for monitoring the  
9 student's educational progress until the student is readmitted into  
10 school. The school administration shall provide the student with an  
11 education plan designed for the eventual reintegration of the  
12 student into school which provides only for the core units in which  
13 the student is enrolled. A copy of the education plan shall also be  
14 provided to the student's parent or guardian. For the purposes of  
15 this section, the core units shall consist of the minimum English,  
16 mathematics, science, social studies and art units required by the  
17 State Board of Education for grade completion in grades kindergarten  
18 through eight and for high school graduation in grades nine through  
19 twelve. The plan shall set out the procedure for education and  
20 shall address academic credit for work satisfactorily completed.

21 E. A student who has been suspended out-of-school from a public  
22 or private school in the State of Oklahoma or another state for a  
23 violent act or an act showing deliberate or reckless disregard for  
24 the health or safety of faculty or other students shall not be

1 entitled to enroll in a public school of this state, and no public  
2 school shall be required to enroll the student, until the terms of  
3 the suspension have been met or the time of suspension has expired.

4 F. No public school of this state shall be required to provide  
5 education services in the regular school setting to any student who  
6 has been adjudicated as a delinquent for an offense defined as a  
7 violent crime in Section 571 of Title 57 of the Oklahoma Statutes ~~as~~  
8 ~~an exception to a nonviolent offense~~ or convicted as an adult of an  
9 offense defined as a violent crime in Section 571 of Title 57 of the  
10 Oklahoma Statutes ~~as an exception to a nonviolent offense~~, who has  
11 been removed from a public or private school in the State of  
12 Oklahoma or another state by administrative or judicial process for  
13 a violent act or an act showing deliberate or reckless disregard for  
14 the health or safety of faculty or other students, or who has been  
15 suspended as provided for in paragraph 3 of subsection C of this  
16 section until the school in which the student is subsequently  
17 enrolled determines that the student no longer poses a threat to  
18 self, other students or school district faculty or employees. Until  
19 the school in which such student subsequently enrolls or re-enrolls  
20 determines that the student no longer poses a threat to self, other  
21 students or school district faculty or employees, the school may  
22 provide education services through an alternative school setting,  
23 home-based instruction, or other appropriate setting. If the school  
24 provides education services to such student at a district school

1 facility, the school shall notify any student or school district  
2 faculty or employee victims of such student, when known, and shall  
3 ensure that the student will not be allowed in the general vicinity  
4 of or contact with a victim of the student, provided such victim  
5 notifies the school of the victim's desire to refrain from contact  
6 with the offending student.

7 G. Students suspended out-of-school who are on an  
8 individualized education plan pursuant to the Individuals with  
9 Disabilities Education Act, P.L. No. 101-476, or who are subject to  
10 the provisions of subsection F of this section and who are on an  
11 individualized education plan shall be provided the education and  
12 related services in accordance with the student's individualized  
13 education plan.

14 H. A student who has been suspended for a violent offense which  
15 is directed towards a classroom teacher shall not be allowed to  
16 return to that teacher's classroom without the approval of that  
17 teacher.

18 I. At its discretion, a school district may require a student  
19 guilty of acts listed in subparagraph a or b of paragraph 1 of  
20 subsection C of this section to complete intervention and prevention  
21 programs as provided by designated Youth Service Agencies, if  
22 available.

23

24

1 J. No school board, administrator or teacher may be held  
2 civilly liable for any action taken in good faith which is  
3 authorized by this section.

4 SECTION 7. AMENDATORY 74 O.S. 2011, Section 150.2, is  
5 amended to read as follows:

6 Section 150.2. The Oklahoma State Bureau of Investigation shall  
7 have the power and duty to:

8 1. Maintain a nationally accredited scientific laboratory to  
9 assist all law enforcement agencies in the discovery and detection  
10 of criminal activity;

11 2. Maintain fingerprint and other identification files  
12 including criminal history records, juvenile identification files,  
13 and DNA profiles;

14 3. Establish, coordinate and maintain the automated  
15 fingerprinting identification system (AFIS) and the deoxyribonucleic  
16 acid (DNA) laboratory;

17 4. Operate teletype, mobile and fixed radio or other  
18 communications systems;

19 5. Conduct schools and training programs for the agents, peace  
20 officers, and technicians of this state charged with the enforcement  
21 of law and order and the investigation and detection of crime;

22 6. Assist the Director of the Oklahoma State Bureau of  
23 Narcotics and Dangerous Drugs Control, the Chief Medical Examiner,  
24 and all law enforcement officers and district attorneys when such

1 assistance is requested, in accordance with the policy determined by  
2 the Oklahoma State Bureau of Investigation Commission established in  
3 Section 150.3 of this title;

4 7. Investigate and detect criminal activity when directed to do  
5 so by the Governor;

6 8. Investigate, detect, institute and maintain actions  
7 involving vehicle theft pursuant to Section 150.7a of this title or  
8 oil, gas or oil field equipment theft pursuant to Sections 152.2  
9 through 152.9 of this title;

10 9. Investigate any criminal threat made to the physical safety  
11 of elected or appointed officials of this state or any political  
12 subdivision of the state and forward the results of that  
13 investigation to the Department of Public Safety, and provide  
14 security to foreign elected or appointed officials while they are in  
15 this state on official business;

16 10. Investigate and detect violations of the Oklahoma Computer  
17 Crimes Act; and

18 11. Investigate and enforce all laws relating to any crime  
19 ~~listed as an exception to the definition of "nonviolent offense" as~~  
20 ~~set forth~~ in section 571 of Title 57 of the Oklahoma Statutes that  
21 occur on the turnpikes.

22 SECTION 8. This act shall become effective November 1, 2015.

23

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