CORRECTED

HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 499

By: Paxton of the Senate

and

Caldwell (Trey) of the House

COMMITTEE SUBSTITUTE

An Act relating to the Attorney General; amending 74 O.S. 2021, Section 18c, which relates to defense of actions by the Attorney General; granting certain authority to the Attorney General; amending 74 O.S. 2021, Section 18d, which relates to district attorneys and their requiring of aid; modifying request procedures; amending 74 O.S. 2021, Section 18e, which relates to criminal actions, quo warranto, and appearance before grand juries; modifying procedures; amending 22 O.S. 2021, Section 19a, which relates to arrest or charge as result of identity theft, expungement on motion of court; permitting motion by Attorney General; amending 22 O.S. 2021, Section 258, as amended by Section 2, Chapter 269, O.S.L. 2022 (22 O.S. Supp. 2022, Section 258, which relates to preliminary examinations and proceedings thereon; expanding authority of the Attorney General; amending 22 O.S. 2021, Section 303, which relates to subscription, endorsement, and verification of information; expanding authority of Attorney General and requirements; amending 22 O.S. 2021, Section 409, which relates to the sufficiency of indictment or information; expanding certain criteria; amending 22
O.S. 2021, Section 751.1, which relates to DNA profile, use as evidence and notification of defendant; expanding certain requirements to be applicable to the Attorney General’s office; modifying certain timing provisions; amending 22 O.S. 2021, Section 982, which relates to presentence investigations; expanding certain requirements to be applicable to the Attorney General’s office; amending 22 O.S. 2021, Section 982a, which relates to judicial review; requiring certain approvals by the Attorney General; modifying applicability; amending 22 O.S. 2021, Section 991a, which relates to sentencing powers of court, restitution, fines, or incarceration; allowing waiver of certain prohibitions upon written application of the Attorney General; repealing 22 O.S. 2021, Section 524, which relates to preliminary hearing on felony indictment, time for request, witnesses, and dismissal; and declaring an emergency.

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

SECTION 1. AMENDATORY 74 O.S. 2021, Section 18c, is amended to read as follows:

Section 18c. A. 1. Except as otherwise provided by this subsection, no state officer, board or commission shall have authority to employ or appoint attorneys to advise or represent said officer, board or commission in any matter.

2. The provisions of this subsection shall not apply to the Corporation Commission, the Council on Law Enforcement Education and Training, the Consumer Credit Commission, the Board of Managers of the State Insurance Fund, the Oklahoma Tax Commission, the
Commissioners of the Land Office, the Oklahoma Public Welfare Commission also known as the Commission for Human Services, the State Board of Corrections, the Oklahoma Health Care Authority, the Department of Public Safety, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission, the Transportation Commission, the Oklahoma Energy Resources Board, the Oklahoma Merit Protection Commission, the Office of Management and Enterprise Services, the Oklahoma Water Resources Board, the Department of Labor, the Department of Agriculture, Food, and Forestry, the Northeast Oklahoma Public Facilities Authority, the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Public Employees Retirement System, the Uniform Retirement System for Justices and Judges, the Oklahoma Conservation Commission, the Office of Juvenile Affairs, the State Board of Pharmacy and the Oklahoma Department of Veterans Affairs.

3. The provisions of paragraph 2 of this subsection shall not be construed to authorize the Office of Juvenile Affairs to employ any attorneys that are not specifically authorized by law.

4. All the legal duties of such officer, board or commission shall devolve upon and are hereby vested in the Attorney General; provided that:

   a. the Governor shall have authority to employ special counsel to protect the rights or interest of the state as provided in Section 6 of this title, and
b. liquidation agents of banks shall have the authority to employ local counsel, with the consent of the Bank Commissioner and the Attorney General and the approval of the district court.

B. At the request of any state officer, board or commission, except the Corporation Commission, the Board of Managers of the CompSource Oklahoma, Oklahoma Tax Commission and the Commissioners of the Land Office, the Grand River Dam Authority, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission, the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Public Employees Retirement System, the Uniform Retirement System for Justices and Judges and the Interstate Oil and Gas Compact Commission, the Attorney General shall defend any action in which they may be sued in their official capacity. At the request of any such state officer, board or commission, the Attorney General shall have authority to institute suits in the name of the State of Oklahoma on their relation, if after investigation the Attorney General is convinced there is sufficient legal merit to justify the action.

C. The Attorney General shall have the authority to enter into memoranda of understanding, commensurate with the Attorney General’s duties and responsibilities, with any law enforcement entity or district attorney.
D. Any officer, board or commission which has the authority to employ or appoint attorneys may request that the Attorney General defend any action arising pursuant to the provisions of The Governmental Tort Claims Act.

E. Nothing in this section shall be construed to repeal or affect the provisions of the statutes of this state pertaining to attorneys and legal advisors of the several commissions and departments of state specified in subsection B of this section, and all acts and parts of acts pertaining thereto shall be and remain in full force and effect.

SECTION 2. AMENDATORY 74 O.S. 2021, Section 18d, is amended to read as follows:

Section 18d. The Attorney General shall have authority to require the aid and assistance of district attorneys in their respective counties in the matters hereinbefore enumerated and may in any case brought to the Supreme Court or Criminal Court of Appeals from their respective counties demand and receive the assistance of the district attorney from whose county such case is brought. Any district attorney desiring the assistance of the Attorney General in any matter shall request the Governor for such assistance, and upon receiving the direction of the Governor to render such assistance, the Attorney General shall proceed immediately, compatible with the performance of his own duties to render the assistance. A district attorney may request the Attorney
General provide assistance in any matter. Upon receiving such request, the Attorney General may render such assistance, compatible with the performance of the Attorney General’s other duties.

SECTION 3. AMENDATORY 74 O.S. 2021, Section 18e, is amended to read as follows:

Section 18e. In addition to the above powers and duties, the Attorney General shall, when requested by the Governor, have power and authority to institute and prosecute criminal actions and actions in the nature of quo warranto; and shall, when requested by the Governor, compatible with the performance of his other duties, appear before and assist grand juries in their investigations. The Attorney General shall have the power and authority to institute and prosecute criminal actions by complaints, informations, indictments returned by a county or multicounty grand jury, and actions in the nature of quo warranto; and may, compatible with the performance of the Attorney General’s other duties, appear before and assist grand juries in their investigations.

SECTION 4. AMENDATORY 22 O.S. 2021, Section 19a, is amended to read as follows:

Section 19a. Notwithstanding any provision of Section 18 or 19 of Title 22 of the Oklahoma Statutes, when a charge is dismissed because the court finds that the defendant has been arrested or charged as a result of the defendant’s name or other identification having been appropriated or used without the defendant’s consent or
authorization by another person, the court dismissing the charge
may, upon motion of the district attorney or the Attorney General or
the defendant or upon the court’s own motion, enter an order for
expungement of law enforcement and court records relating to the
charge. The order shall contain a statement that the dismissal and
expungement are ordered pursuant to this section. An order entered
pursuant to this section shall be subject to the provisions of
subsections D through M of Section 19 of Title 22 of the Oklahoma
Statutes.

SECTION 5. AMENDATORY 22 O.S. 2021, Section 258, as
amended by Section 2, Chapter 269, O.S.L. 2022 (22 O.S. Supp. 2022,
Section 258), is amended to read as follows:

Section 258. First: The witnesses must be examined in the
presence of the defendant, and may be cross-examined by the
defendant. On the request of the district attorney, the Attorney
General, or the defendant, all the testimony must be reduced to
writing in the form of questions and answers and signed by the
witnesses, or the same may be taken in shorthand and transcribed
without signing, and in both cases filed with the clerk of the
district court, by the examining magistrate, and may be used as
provided in Section 333 of this title. In no case shall the county
be liable for the expense in reducing such testimony to writing,
unless ordered by the judge of a court of record.
Second: The district attorney or the Attorney General may, on approval of the county judge or the district judge, issue subpoenas in felony cases and call witnesses before the district attorney or the Attorney General and have them sworn and their testimony reduced to writing and signed by the witnesses at the cost of the county. Such examination must be confined to some felony committed against the statutes of the state and triable in that county, and the evidence so taken shall not be receivable in any civil proceeding. A refusal to obey such subpoena or to be sworn or to testify may be punished as a contempt on complaint and showing to the county court, or district court, or the judges thereof that proper cause exists therefor.

Third: No preliminary information shall be filed without the consent or endorsement of the district attorney or the Attorney General, unless the defendant be taken in the commission of a felony, or the offense be of such character that the accused is liable to escape before the district attorney or the Attorney General can be consulted. If the defendant is discharged and the information is filed without authority from or endorsement of the district attorney or the Attorney General, the costs must be taxed to the prosecuting witness, and the county shall not be liable therefor.

Fourth: The convening and session of a grand jury does not dispense with the right of the district attorney or the Attorney
General to file complaints and informations, conduct preliminary hearings and other routine matters, unless otherwise specifically ordered, by a written order of the court convening the grand jury; made on the court's own motion, or at the request of the grand jury.

Fifth: There shall be no preliminary examinations in misdemeanor cases.

Sixth: A preliminary magistrate shall have the authority to limit the evidence presented at the preliminary hearing to that which is relevant to the issues of: (1) whether the crime was committed, and (2) whether there is probable cause to believe the defendant committed the crime. Once a showing of probable cause is made the magistrate shall terminate the preliminary hearing and enter a bindover order; provided, however, that the preliminary hearing shall be terminated only if the state made available for inspection law enforcement reports within the prosecuting attorney's knowledge or possession at the time to the defendant five (5) working days prior to the date of the preliminary hearing. The district attorney or the Attorney General shall determine whether or not to make law enforcement reports available prior to the preliminary hearing. If reports are made available, the district attorney shall be required to provide those law enforcement reports that the district attorney knows to exist at the time of providing the reports, but this does not include any physical evidence which may exist in the case. This provision
does not require the district attorney or the Attorney General to provide copies for the defendant, but only to make them available for inspection by defense counsel. In the alternative, upon agreement of the state and the defendant, the court may terminate the preliminary hearing once a showing of probable cause is made.

Seventh: A preliminary magistrate shall accept into evidence as proof of prior convictions a noncertified copy of a Judgment and Sentence when the copy appears to the preliminary magistrate to be patently accurate. The district attorney or the Attorney General shall make a noncertified copy of the Judgment and Sentence available to the defendant no fewer than five (5) days prior to the hearing. If such copy is not made available five (5) days prior to the hearing, the court shall continue the portion of the hearing to which the copy is relevant for such time as the defendant requests, not to exceed five (5) days subsequent to the receipt of the copy.

Eighth: The purpose of the preliminary hearing is to establish probable cause that a crime was committed and probable cause that the defendant committed the crime.

Ninth: The preliminary hearing must be set within nine (9) months from the initial appearance of the defendant. If commencement of the preliminary hearing is delayed past the nine-month time limit, a show cause hearing shall be scheduled by the court to show reason for the delay. If the court fails to find good
cause for the delay, the court shall schedule a preliminary hearing as soon as practicable.

SECTION 6. AMENDATORY 22 O.S. 2021, Section 303, is amended to read as follows:

Section 303. A. The district attorney or the Attorney General shall subscribe the district attorney’s or the Attorney General’s name to informations filed in the district court and endorse thereon the names and last-known addresses of all the witnesses known to the district attorney or the Attorney General at the time of filing the same, if intended to be called by the district attorney or the Attorney General at a preliminary examination or at trial. Thereafter, the district attorney or the Attorney General shall also endorse thereon the names and last-known addresses of such other witnesses as may afterwards become known to the district attorney or the Attorney General, if they are intended to be called as witnesses at a preliminary examination or at trial, at such time as the court may by rule prescribe.

Upon filing of an application by the district attorney or the Attorney General, notice to defense counsel, and hearing establishing need for witness protection or preservation of the integrity of evidence, the district court may excuse witness endorsement, or some part thereof. Such proceedings shall be conducted in camera, and the record shall be sealed and filed in the
office of the district court clerk, and shall not be opened except
by order of the district court.

B. Notwithstanding other provisions of law, when a law
enforcement officer issues a citation or ticket as the basis for a
complaint or information, for a violation of law declared to be a
misdemeanor, the citation or ticket shall be properly verified if:

1. The issuing officer subscribes the officer's signature on
the citation, ticket or complaint to the following statement:

"I, the undersigned issuing officer, hereby certify and
swear that I have read the foregoing information and know
the facts and contents thereof and that the facts
supporting the criminal charge stated therein are true."

Such a subscription by an issuing officer, in all respects, shall
constitute a sworn statement, as if sworn to upon an oath
administered by an official authorized by law to administer oaths;
and

2. The citation or ticket states the specific facts supporting
the criminal charge and the ordinance or statute alleged to be
violated; or

3. A complainant verifies by oath, subscribed on the citation,
ticket or complaint, that the complainant has read the information,
knows the facts and contents thereof and that the facts supporting
the criminal charge stated therein are true. For purpose of such an
oath and subscription, any law enforcement officer of the state or
of a county or municipality of the state issuing the citation, ticket or complaint shall be authorized to administer the oath to the complainant.

C. As used in this section, the term “signature” shall include a digital or electronic signature, as defined in Section 15-102 of Title 12A of the Oklahoma Statutes.

SECTION 7. AMENDATORY 22 O.S. 2021, Section 409, is amended to read as follows:

Section 409. The indictment or information is sufficient if it can be understood therefrom:

1. That it is entitled in a court having authority to receive it, though the name of the court be not stated.

2. That it was found by a grand jury or presented by the district attorney of the county in which the court was held, or presented by the Attorney General.

3. That the defendant is named, or if his name cannot be discovered, that he is described by a fictitious name, with the statement that his true name is unknown.

4. That the offense was committed at some place within the jurisdiction of the court, except where the act, though done without the local jurisdiction of the county, is triable therein.

5. That the offense was committed at some time prior to the time of filing the indictment or information.
6. That the act or omission charged as the offense is clearly and distinctly set forth in ordinary and concise language, without repetition, and in such a manner as to enable a person of common understanding to know what is intended.

7. That the act or omission charged as the offense, is stated with such a degree of certainty, as to enable the court to pronounce judgment upon a conviction according to the right of the case.

SECTION 8. AMENDATORY 22 O.S. 2021, Section 751.1, is amended to read as follows:

Section 751.1 A. As used in this act:

1. "Deoxyribonucleic Acid (DNA)" means the molecules in all cellular forms that contain genetic information in a patterned chemical structure of each individual; and

2. "DNA Profile" means an analysis of DNA resulting in the identification of an individual's patterned chemical structure of genetic information.

B. 1. At any hearing prior to trial or at a forfeiture hearing, a report of the findings of a laboratory report from a forensic laboratory operated by this state or any political subdivision thereof, or from a laboratory performing analysis at the request of a forensic laboratory operated by this state or any political subdivision thereof, regarding DNA Profile, which has been made available to the accused by the office of the district attorney, or the office of the Attorney General, in cases prosecuted
by the Attorney General, at least five (5) days prior to the hearing, when certified as correct by the persons making the report, shall be received as evidence of the facts and findings stated, if relevant and otherwise admissible in evidence. If a report is deemed relevant by the state or the accused, the court shall admit the report without the testimony of the person making the report, unless the court, pursuant to this section, orders the person making the report to appear. If the accused is not served with a report, by the district attorney, or the office of the Attorney General, in cases prosecuted by the Attorney General, at least five (5) days prior to a hearing, the accused may be allowed a continuance of the portion of the hearing to which the report is relevant, to allow at least five (5) days' preparation subsequent to the furnishing of the report by the district attorney, or the office of the Attorney General, in cases prosecuted by the Attorney General.

2. The court, upon motion of the state or accused, shall order the attendance of any person preparing such a report submitted as evidence in any hearing prior to trial or forfeiture hearing, when it appears there is a substantial likelihood that material evidence not contained in the report may be produced by the testimony of the person having prepared the report. The motion shall be filed and notice given of the hearing on the motion to order the attendance of the person having prepared the report. A hearing shall be held and, if the motion is sustained, an order issued giving not less than
five (5) days' prior notice to the time when the testimony shall be required. If, within five (5) days prior to the hearing or during a hearing, a motion is made pursuant to this subsection requiring a person having prepared a report to testify, the court may hear the report or other evidence but shall continue the hearing until such time notice of the motion and hearing is given to the person having prepared the report, the motion is heard, and, if sustained, testimony ordered can be given.

C. If the state decides to offer evidence of a DNA profile in any trial on the merits, the state shall, at least fifteen (15) ten (10) days before the criminal proceeding, notify in writing the defendant or the defendant's attorney and mail, deliver, or make available to the defendant or the defendant's attorney a copy of any report or statement to be introduced that has not previously been made available to the defendant or the defendant’s attorney pursuant to subsection B of this section.

SECTION 9. AMENDATORY 22 O.S. 2021, Section 982, is amended to read as follows:

Section 982. A. Whenever a person is convicted of a violent felony offense whether the conviction is for a single offense or part of any combination of offenses, except when the death sentence is available as punishment for the offense, the court may, before imposing the sentence, require a presentence investigation be made of the offender by the Department of Corrections. The court shall
order the defendant to pay a fee to the Department of Corrections of
not less than Fifty Dollars ($50.00) nor more than Five Hundred
Dollars ($500.00) for the presentence investigation. In hardship
cases, the court may reduce the amount of the fee and establish a
payment schedule.

B. Whenever a person has a prior felony conviction and enters a
plea of guilty or nolo contendere to a felony offense other than a
violent felony offense, without an agreement by the district
attorney or the Attorney General regarding the sentence to be
imposed, the court may order a presentence investigation be made by
the Department of Corrections. The fee provided in subsection A of
this section shall apply to persons subject to this subsection.

C. Whenever a person has entered a plea of not guilty to a
nonviolent felony offense and is found guilty by a court following a
non-jury trial, the court may require a presentence investigation be
made by the Department of Corrections. The fee provided in
subsection A of this section shall apply to persons subject to this
subsection.

D. When conducting a presentence investigation, the Department
shall inquire into the circumstances of the offense and the
characteristics of the offender. The information obtained from the
investigation shall include, but not be limited to, a voluntary
statement from each victim of the offense concerning the nature of
the offense and the impact of the offense on the victim and the
immediate family of the victim, the amount of the loss suffered or
incurred by the victim as a result of the criminal conduct of the
offender, and the age, marital status, living arrangements,
financial obligations, income, family history and education, prior
juvenile and criminal records, associations with other persons
convicted of a felony offense, social history, indications of a
predisposition to violence or substance abuse, remorse or guilt
about the offense or the harm to the victim, job skills and
employment history of the offender. The Department shall make a
report of information from such investigation to the court,
including a recommendation detailing the punishment which is deemed
appropriate for both the offense and the offender, and specifically
a recommendation for or against probation or suspended sentence.
The report of the investigation shall be presented to the judge
within a reasonable time, and upon failure to present the report,
the judge may proceed with sentencing. Whenever, in the opinion of
the court or the Department, it is desirable, the investigation
shall include a physical and mental examination or either a physical
or mental examination of the offender.

E. The district attorney may have a presentence investigation
made by the Department on each person charged with a violent felony
offense and entering a plea of guilty or a plea of nolo contendere
as part of or in exchange for a plea agreement for a violent felony
offense. The presentence investigation shall be completed before
the terms of the plea agreement are finalized. The court shall not approve the terms of any plea agreement without reviewing the presentence investigation report to determine whether or not the terms of the sentence are appropriate for both the offender and the offense. The fee provided in subsection A of this section shall apply to persons subject to this subsection and shall be a condition of the plea agreement and sentence.

F. The presentence investigation reports specified in this section shall not be referred to, or be considered, in any appeal proceedings. Before imposing a sentence, the court shall advise the defendant, counsel for the defendant, and the district attorney of the factual contents and conclusions of the presentence investigation report. The court shall afford the offender a fair opportunity to controvert the findings and conclusions of the reports at the time of sentencing. If either the defendant or the district attorney desires, a hearing shall be set by the court to allow both parties an opportunity to offer evidence proving or disproving any finding contained in a report, which shall be a hearing in mitigation or aggravation of punishment.

G. The required presentence investigation and report may be waived upon written waiver by the district attorney and the defendant and upon approval by the Court.

H. As used in this section, "violent felony offense" means:

1. Arson in the first degree;
2. Assault with a dangerous weapon, battery with a dangerous weapon or assault and battery with a dangerous weapon;

3. Aggravated assault and battery on a police officer, sheriff, highway patrol officer, or any other officer of the law;

4. Assault with intent to kill, or shooting with intent to kill;

5. Assault with intent to commit a felony, or use of a firearm to commit a felony;

6. Assault while masked or disguised;

7. Burglary in the first degree or burglary with explosives;

8. Child beating or maiming;

9. Forcible sodomy;

10. Kidnapping, or kidnapping for extortion;

11. Lewd or indecent proposition or lewd or indecent acts with a child;

12. Manslaughter in the first or second degrees;

13. Murder in the first or second degrees;

14. Rape in the first or second degrees, or rape by instrumentation;

15. Robbery in the first or second degrees, or robbery by two or more persons, or robbery with a dangerous weapon; or

16. Any attempt, solicitation or conspiracy to commit any of the above enumerated offenses.
SECTION 10. AMENDATORY 22 O.S. 2021, Section 982a, is amended to read as follows:

Section 982a. A. 1. Any time within sixty (60) months after the initial sentence is imposed or within sixty (60) months after probation has been revoked, the court imposing sentence or revocation of probation may modify such sentence or revocation by directing that another sentence be imposed, if the court is satisfied that the best interests of the public will not be jeopardized; provided, however, the court shall not impose a deferred sentence. Any application for sentence modification that is filed and ruled upon beyond twelve (12) months of the initial sentence being imposed must be approved by the district attorney or the Attorney General, in cases prosecuted by the Attorney General, who shall provide written notice to any victims in the case which is being considered for modification.

2. The court imposing sentence may modify the sentence of any offender who was originally sentenced for a drug charge and ordered to complete the Drug Offender Work Camp at the Bill Johnson Correctional Facility and direct that another sentence be imposed, if the court is satisfied that the best interests of the public will not be jeopardized; provided, however, the court shall not impose a deferred sentence. An application for sentence modification pursuant to this paragraph may be filed and ruled upon beyond the
initial sixty-month time period provided for in paragraph 1 of this subsection.

3. This section shall not apply to convicted felons who have been in confinement in any state or federal prison system for any previous felony conviction during the ten-year period preceding the date that the sentence this section applies to was imposed. Further, without the consent of the district attorney or the Attorney General, in cases prosecuted by the Attorney General, this section shall not apply to sentences imposed pursuant to a plea agreement or jury verdict.

B. The court imposing the sentence may modify the sentence of any offender sentenced to life without parole for an offense other than a violent crime, as enumerated in Section 571 of Title 57 of the Oklahoma Statutes, who has served at least ten (10) years of the sentence in the custody of the Department of Corrections upon a finding that the best interests of the public will not be jeopardized. Provided; however, prior to granting a sentence modification under the provisions of this subsection, the court shall provide notice of the hearing to determine sentence modification to the victim or representative of the victim and shall allow the victim or representative of the victim the opportunity to provide testimony at the hearing. The court shall consider the testimony of the victim or representative of the victim when rendering a decision to modify the sentence of an offender.
C. For purposes of judicial review, upon court order or written request from the sentencing judge, the Department of Corrections shall provide the court imposing sentence or revocation of probation with a report to include a summary of the assessed needs of the offender, any progress made by the offender in addressing his or her assessed needs, and any other information the Department can supply on the offender. The court shall consider such reports when modifying the sentence or revocation of probation. The court shall allow the Department of Corrections at least twenty (20) days after receipt of a request or order from the court to prepare the required reports.

D. If the court considers modification of the sentence or revocation of probation, a hearing shall be made in open court after receipt of the reports required in subsection C of this section. The clerk of the court imposing sentence or revocation of probation shall give notice of the judicial review hearing to the Department of Corrections, the offender, the legal counsel of the offender, and the district attorney of the county in which the offender was convicted or the Attorney General, in cases prosecuted by the Attorney General, upon receipt of the reports. Such notice shall be mailed at least twenty-one (21) days prior to the hearing date and shall include a copy of the report and any other written information to be considered at the judicial review hearing.
E. If an appeal is taken from the original sentence or from a revocation of probation which results in a modification of the sentence or modification to the revocation of probation of the offender, such sentence may be further modified in the manner described in paragraph 1 of subsection A of this section within sixty (60) months after the receipt by the clerk of the district court of the mandate from the Supreme Court or the Court of Criminal Appeals.

SECTION 11. AMENDATORY 22 O.S. 2021, Section 991a, is amended to read as follows:

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

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

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

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

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

d. to pay a reasonable sum into any trust fund
established pursuant to the provisions of Sections 176
through 180.4 of Title 60 of the Oklahoma Statutes and
which provides restitution payments by convicted
defendants to victims of crimes committed within this
state wherein such victim has incurred a financial
loss,
e. to confinement in the county jail for a period not to exceed six (6) months,

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

g. to repay the reward or part of the reward paid by a local certified crime stoppers program and the Oklahoma Reward System. In determining whether the defendant shall repay the reward or part of the reward, the court shall consider the ability of the defendant to make the payment, the financial hardship on the defendant to make the required payment and the importance of the information to the prosecution of the defendant as provided by the arresting officer or
the district attorney with due regard for the confidentiality of the records of the local certified crime stoppers program and the Oklahoma Reward System. The court shall assess this repayment against the defendant as a cost of prosecution. The term "certified" means crime stoppers organizations that annually meet the certification standards for crime stoppers programs established by the Oklahoma Crime Stoppers Association to the extent those standards do not conflict with state statutes. The term "court" refers to all municipal and district courts within this state. The "Oklahoma Reward System" means the reward program established by Section 150.18 of Title 74 of the Oklahoma Statutes, h. to reimburse the Oklahoma State Bureau of Investigation for costs incurred by that agency during its investigation of the crime for which the defendant pleaded guilty, nolo contendere or was convicted including compensation for laboratory, technical or investigation services performed by the Bureau if, in the opinion of the court, the defendant is able to pay without imposing manifest hardship on the defendant, and if the costs incurred by the Bureau during the
investigation of the defendant's case may be
determined with reasonable certainty,
i. to reimburse the Oklahoma State Bureau of
Investigation and any authorized law enforcement
agency for all costs incurred by that agency for
cleaning up an illegal drug laboratory site for which
the defendant pleaded guilty, nolo contendere or was
convicted. The court clerk shall collect the amount
and may retain five percent (5%) of such monies to be
deposited in the Court Clerk's Revolving Fund to cover
administrative costs and shall remit the remainder to
the Oklahoma State Bureau of Investigation to be
deposited in the OSBI Revolving Fund established by
Section 150.19a of Title 74 of the Oklahoma Statutes
or to the general fund wherein the other law
enforcement agency is located,
j. to pay a reasonable sum to the Crime Victims
Compensation Board, created by Section 142.2 et seq.
of Title 21 of the Oklahoma Statutes, for the benefit
of crime victims,
k. to reimburse the court fund for amounts paid to court-
appointed attorneys for representing the defendant in
the case in which the person is being sentenced,
1. to participate in an assessment and evaluation by an assessment agency or assessment personnel certified by the Department of Mental Health and Substance Abuse Services pursuant to Section 3-460 of Title 43A of the Oklahoma Statutes and, as determined by the assessment, participate in an alcohol and drug substance abuse course or treatment program or both, pursuant to Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes, or as ordered by the court,
m. to be placed in a victims impact panel program, as defined in subsection H of this section, or victim/offender reconciliation program and payment of a fee to the program of Seventy-five Dollars ($75.00) as set by the governing authority of the program to offset the cost of participation by the defendant. Provided, each victim/offender reconciliation program shall be required to obtain a written consent form voluntarily signed by the victim and defendant that specifies the methods to be used to resolve the issues, the obligations and rights of each person and the confidentiality of the proceedings. Volunteer mediators and employees of a victim/offender reconciliation program shall be immune from liability
and have rights of confidentiality as provided in Section 1805 of Title 12 of the Oklahoma Statutes, n. to install, at the expense of the defendant, an ignition interlock device approved by the Board of Tests for Alcohol and Drug Influence. The device shall be installed upon every motor vehicle operated by the defendant, and the court shall require that a notation of this restriction be affixed to the defendant's driver license. The restriction shall remain on the driver license not exceeding two (2) years to be determined by the court. The restriction may be modified or removed only by order of the court and notice of any modification order shall be given to the Department of Public Safety. Upon the expiration of the period for the restriction, the Department of Public Safety shall remove the restriction without further court order. Failure to comply with the order to install an ignition interlock device or operating any vehicle without a device during the period of restriction shall be a violation of the sentence and may be punished as deemed proper by the sentencing court. As used in this paragraph, "ignition interlock device" means a device that, without tampering or intervention by another person, would prevent the
defendant from operating a motor vehicle if the
defendant has a blood or breath alcohol concentration
of two-hundredths (0.02) or greater,
o. to be confined by electronic monitoring administered
and supervised by the Department of Corrections or a
community sentence provider, and payment of a
monitoring fee to the supervising authority, not to
exceed Three Hundred Dollars ($300.00) per month. Any
fees collected pursuant to this subparagraph shall be
deposited with the appropriate supervising authority.
Any willful violation of an order of the court for the
payment of the monitoring fee shall be a violation of
the sentence and may be punished as deemed proper by
the sentencing court. As used in this paragraph,
"electronic monitoring" means confinement of the
defendant within a specified location or locations
with supervision by means of an electronic device
approved by the Department of Corrections which is
designed to detect if the defendant is in the court-
ordered location at the required times and which
records violations for investigation by a qualified
supervisory agency or person,
p. to perform one or more courses of treatment, education
or rehabilitation for any conditions, behaviors,
deficiencies or disorders which may contribute to
criminal conduct including but not limited to alcohol
and substance abuse, mental health, emotional health,
physical health, propensity for violence, antisocial
behavior, personality or attitudes, deviant sexual
behavior, child development, parenting assistance, job
skills, vocational-technical skills, domestic
relations, literacy, education or any other
identifiable deficiency which may be treated
appropriately in the community and for which a
certified provider or a program recognized by the
court as having significant positive impact exists in
the community. Any treatment, education or
rehabilitation provider required to be certified
pursuant to law or rule shall be certified by the
appropriate state agency or a national organization,
q. to submit to periodic testing for alcohol,
intoxicating substance or controlled dangerous
substances by a qualified laboratory,
r. to pay a fee or costs for treatment, education,
supervision, participation in a program or any
combination thereof as determined by the court, based
upon the defendant's ability to pay the fees or costs,
s. to be supervised by a Department of Corrections employee, a private supervision provider or other person designated by the court,

t. to obtain positive behavior modeling by a trained mentor,
u. to serve a term of confinement in a restrictive housing facility available in the community,
v. to serve a term of confinement in the county jail at night or during weekends pursuant to Section 991a-2 of this title or for work release,
w. to obtain employment or participate in employment-related activities,
x. to participate in mandatory day reporting to facilities or persons for services, payments, duties or person-to-person contacts as specified by the court,
y. to pay day fines not to exceed fifty percent (50%) of the net wages earned. For purposes of this paragraph, "day fine" means the offender is ordered to pay an amount calculated as a percentage of net daily wages earned. The day fine shall be paid to the local community sentencing system as reparation to the community. Day fines shall be used to support the local system,
z. to submit to blood or saliva testing as required by
   subsection I of this section,

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

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

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

d. in the case of a person convicted of prostitution
pursuant to Section 1029 of Title 21 of the Oklahoma
Statutes, require such person to receive counseling
for the behavior which may have caused such person to
engage in prostitution activities. Such person may be
required to receive counseling in areas including but
not limited to alcohol and substance abuse, sexual
behavior problems or domestic abuse or child abuse
problems,
ee. in the case of a sex offender sentenced after November 1, 1989, and required by law to register pursuant to the Sex Offender Registration Act, the court shall require the person to comply with sex offender specific rules and conditions of supervision established by the Department of Corrections and require the person to participate in a treatment program designed for the treatment of sex offenders during the period of time while the offender is subject to supervision by the Department of Corrections. The treatment program shall include polygraph examinations specifically designed for use with sex offenders for purposes of supervision and treatment compliance, and shall be administered not less than each six (6) months during the period of supervision. The examination shall be administered by a certified licensed polygraph examiner. The treatment program must be approved by the Department of Corrections or the Department of Mental Health and Substance Abuse Services. Such treatment shall be at the expense of the defendant based on the defendant's ability to pay,

ff. in addition to other sentencing powers of the court,
for a felony conviction for a violation of Section 2-402 of Title 63 of the Oklahoma Statutes which involves marijuana may require the person to participate in a drug court program, if available. If a drug court program is not available, the defendant may be required to participate in a community sanctions program, if available,

for a felony conviction for a violation of Section 2-402 of Title 63 of the Oklahoma Statutes which involves marijuana may require the person to participate in a drug court program, if available. If a drug court program is not available, the defendant may be required to participate in a community sanctions program, if available,

gg. in the case of a person convicted of any false or bogus check violation, as defined in Section 1541.4 of Title 21 of the Oklahoma Statutes, impose a fee of Twenty-five Dollars ($25.00) to the victim for each check, and impose a bogus check fee to be paid to the district attorney. The bogus check fee paid to the district attorney shall be equal to the amount assessed as court costs plus Twenty-five Dollars ($25.00) for each check upon filing of the case in district court. This money shall be deposited in the Bogus Check Restitution Program Fund as established in subsection B of Section 114 of this title. Additionally, the court may require the offender to pay restitution and bogus check fees on any other bogus check or checks that have been submitted to the Bogus Check Restitution Program, and

hh. any other provision specifically ordered by the court.
However, any such order for restitution, community service, payment to a local certified crime stoppers program, payment to the Oklahoma Reward System or confinement in the county jail, or a combination thereof, shall be made in conjunction with probation and shall be made a condition of the suspended sentence.

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

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

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

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

6. In the case of nonviolent felony offenses, sentence such person to the Community Service Sentencing Program;
7. In addition to the other sentencing powers of the court, in
the case of a person convicted of operating or being in control of a
motor vehicle while the person was under the influence of alcohol,
other intoxicating substance or a combination of alcohol or another
intoxicating substance, or convicted of operating a motor vehicle
while the ability of the person to operate such vehicle was impaired
due to the consumption of alcohol, require such person:
   a. to participate in an alcohol and drug assessment and
evaluation by an assessment agency or assessment
personnel certified by the Department of Mental Health
and Substance Abuse Services pursuant to Section 3-460
of Title 43A of the Oklahoma Statutes and, as
determined by the assessment, participate in an
alcohol and drug substance abuse course or treatment
program or both, pursuant to Sections 3-452 and 3-453
of Title 43A of the Oklahoma Statutes,
   b. to attend a victims impact panel program, as defined
in subsection H of this section, and to pay a fee of
Seventy-five Dollars ($75.00) as set by the governing
authority of the program and approved by the court, to
the program to offset the cost of participation by the
defendant, if in the opinion of the court the
defendant has the ability to pay such fee,
c. to both participate in the alcohol and drug substance abuse course or treatment program, pursuant to subparagraph a of this paragraph and attend a victims impact panel program, pursuant to subparagraph b of this paragraph,

d. to install, at the expense of the person, an ignition interlock device approved by the Board of Tests for Alcohol and Drug Influence, upon every motor vehicle operated by such person and to require that a notation of this restriction be affixed to the person's driver license at the time of reinstatement of the license.

The restriction shall remain on the driver license for such period as the court shall determine. The restriction may be modified or removed by order of the court and notice of the order shall be given to the Department of Public Safety. Upon the expiration of the period for the restriction, the Department of Public Safety shall remove the restriction without further court order. Failure to comply with the order to install an ignition interlock device or operating any vehicle without such device during the period of restriction shall be a violation of the sentence and may be punished as deemed proper by the sentencing court, or
e. beginning January 1, 1993, to submit to electronically monitored home detention administered and supervised by the Department of Corrections, and to pay to the Department a monitoring fee, not to exceed Seventy-five Dollars ($75.00) a month, to the Department of Corrections, if in the opinion of the court the defendant has the ability to pay such fee. Any fees collected pursuant to this subparagraph shall be deposited in the Department of Corrections Revolving Fund. Any order by the court for the payment of the monitoring fee, if willfully disobeyed, may be enforced as an indirect contempt of court;

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

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

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

11. In addition to the other sentencing powers of the court,
the court, in the case of a person convicted of abuse or neglect of
a child, as defined in Section 1-1-105 of Title 10A of the Oklahoma
Statutes, may require the person to undergo treatment or to
participate in counseling services. The defendant may be required
to pay all or part of the cost of the treatment or counseling
services;
12. In addition to the other sentencing powers of the court, the court, in the case of a person convicted of cruelty to animals pursuant to Section 1685 of Title 21 of the Oklahoma Statutes, may require the person to pay restitution to animal facilities for medical care and any boarding costs of victimized animals;

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

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

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

16. In addition to the other sentencing powers of the court,
and pursuant to the terms and conditions of a written plea
agreement, the court may prohibit the defendant from entering,
visiting or residing within the judicial district in which the
defendant was convicted until after completion of his or her
sentence; provided, however, the court shall ensure that the
defendant has access to those services or programs for which the
defendant is required to participate as a condition of probation.
When seeking to enter the prohibited judicial district for personal
business not related to his or her criminal case, the defendant
shall be required to obtain approval by the court.

B. Notwithstanding any other provision of law, any person who
is found guilty of a violation of any provision of Section 761 or
11-902 of Title 47 of the Oklahoma Statutes or any person pleading
guilty or nolo contendere for a violation of any provision of such
sections shall be ordered to participate in, prior to sentencing, an
alcohol and drug assessment and evaluation by an assessment agency
or assessment personnel certified by the Department of Mental Health
and Substance Abuse Services for the purpose of evaluating the
receptivity to treatment and prognosis of the person. The court
shall order the person to reimburse the agency or assessor for the
evaluation. The fee shall be the amount provided in subsection C of
Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation
shall be conducted at a certified assessment agency, the office of a
certified assessor or at another location as ordered by the court.
The agency or assessor shall, within seventy-two (72) hours from the
time the person is assessed, submit a written report to the court
for the purpose of assisting the court in its final sentencing
determination. No person, agency or facility operating an alcohol
and drug substance abuse evaluation program certified by the
Department of Mental Health and Substance Abuse Services shall
solicit or refer any person evaluated pursuant to this subsection
for any treatment program or alcohol and drug substance abuse
service in which such person, agency or facility has a vested
interest; however, this provision shall not be construed to prohibit
the court from ordering participation in or any person from
voluntarily utilizing a treatment program or alcohol and drug
substance abuse service offered by such person, agency or facility.
If a person is sentenced to the custody of the Department of
Corrections and the court has received a written evaluation report
pursuant to this subsection, the report shall be furnished to the
Department of Corrections with the judgment and sentence. Any
evaluation report submitted to the court pursuant to this subsection
shall be handled in a manner which will keep such report confidential from the general public's review. Nothing contained in this subsection shall be construed to prohibit the court from ordering judgment and sentence in the event the defendant fails or refuses to comply with an order of the court to obtain the evaluation required by this subsection.

C. When sentencing a person convicted of a crime, the court shall first consider a program of restitution for the victim, as well as imposition of a fine or incarceration of the offender. The provisions of paragraph 1 of subsection A of this section shall not apply to defendants being sentenced upon their third or subsequent to their third conviction of a felony or, beginning January 1, 1993, to defendants being sentenced for their second or subsequent felony conviction for violation of Section 11-902 of Title 47 of the Oklahoma Statutes, except as otherwise provided in this subsection.

In the case of a person being sentenced for his or her second or subsequent felony conviction for violation of Section 11-902 of Title 47 of the Oklahoma Statutes, the court may sentence the person pursuant to the provisions of paragraph 1 of subsection A of this section if the court orders the person to submit to electronically monitored home detention administered and supervised by the Department of Corrections pursuant to subparagraph e of paragraph 7 of subsection A of this section. Provided, the court may waive these prohibitions upon written application of the district attorney.
or the Attorney General, in cases prosecuted by the Attorney General. Both the application and the waiver shall be made part of the record of the case.

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

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

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

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

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

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

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

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

H. As used in this section:

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

2. "Electronically monitored home detention" means incarceration of the defendant within a specified location or locations with monitoring by means of a device approved by the Department of Corrections that detects if the person leaves the confines of any specified location; and
3. "Victims impact panel program" means a program conducted by a corporation registered with the Secretary of State in Oklahoma for the sole purpose of operating a victims impact panel program. The program shall include live presentations from presenters who will share personal stories with participants about how alcohol, drug abuse, the operation of a motor vehicle while using an electronic communication device or the illegal conduct of others has personally impacted the lives of the presenters. A victims impact panel program shall be attended by persons who have committed the offense of driving, operating or being in actual physical control of a motor vehicle while under the influence of alcohol or other intoxicating substance, operating a motor vehicle while the ability of the person to operate such vehicle was impaired due to the consumption of alcohol or any other substance or operating a motor vehicle while using an electronic device or by persons who have been convicted of furnishing alcoholic beverage to persons under twenty-one (21) years of age, as provided in Sections 6-101 and 6-120 of Title 37A of the Oklahoma Statutes. Persons attending a victims impact panel program shall be required to pay a fee of Seventy-five Dollars ($75.00) to the provider of the program. A certificate of completion shall be issued to the person upon satisfying the attendance and fee requirements of the victims impact panel program. The certificate of completion shall contain the business identification number of the program provider. A certified assessment agency, certified
assessor or provider of an alcohol and drug substance abuse course shall be prohibited from providing a victims impact panel program and shall further be prohibited from having any proprietary or pecuniary interest in a victims impact panel program. The provider of the victims impact panel program shall carry general liability insurance and maintain an accurate accounting of all business transactions and funds received in relation to the victims impact panel program. Beginning October 1, 2020, and each October 1 thereafter, the provider of the victims impact panel program shall provide to the District Attorneys Council the following:

a. proof of registration with the Oklahoma Secretary of State,
b. proof of general liability insurance,
c. end-of-year financial statements prepared by a certified public accountant,
d. a copy of federal income tax returns filed with the Internal Revenue Service,
e. a registration fee of One Thousand Dollars ($1,000.00). The registration fee shall be deposited in the District Attorneys Council Revolving Fund created in Section 215.28 of Title 19 of the Oklahoma Statutes, and
f. a statement certifying that the provider of the victims impact panel program has complied with all of the requirements set forth in this paragraph.

I. A person convicted of a felony offense or receiving any form of probation for an offense in which registration is required pursuant to the Sex Offenders Registration Act, shall submit to deoxyribonucleic acid (DNA) testing for law enforcement identification purposes in accordance with Section 150.27 of Title 74 of the Oklahoma Statutes and the rules promulgated by the Oklahoma State Bureau of Investigation for the OSBI Combined DNA Index System (CODIS) Database. Subject to the availability of funds, any person convicted of a misdemeanor offense of assault and battery, domestic abuse, stalking, possession of a controlled substance prohibited under the Uniform Controlled Dangerous Substances Act, outraging public decency, resisting arrest, escape or attempting to escape, eluding a police officer, Peeping Tom, pointing a firearm, threatening an act of violence, breaking and entering a dwelling place, destruction of property, negligent homicide or causing a personal injury accident while driving under the influence of any intoxicating substance, or any alien unlawfully present under federal immigration law, upon arrest, shall submit to DNA testing for law enforcement identification purposes in accordance with Section 150.27 of Title 74 of the Oklahoma Statutes and the rules promulgated by the Oklahoma State Bureau of
Investigation for the OSBI Combined DNA Index System (CODIS) Database. Any defendant sentenced to probation shall be required to submit to testing within thirty (30) days of sentencing either to the Department of Corrections or to the county sheriff or other peace officer as directed by the court. Defendants who are sentenced to a term of incarceration shall submit to testing in accordance with Section 530.1 of Title 57 of the Oklahoma Statutes, for those defendants who enter the custody of the Department of Corrections or to the county sheriff, for those defendants sentenced to incarceration in a county jail. Convicted individuals who have previously submitted to DNA testing under this section and for whom a valid sample is on file in the OSBI Combined DNA Index System (CODIS) Database at the time of sentencing shall not be required to submit to additional testing. Except as required by the Sex Offenders Registration Act, a deferred judgment does not require submission to DNA testing.

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

J. Samples of blood or saliva for DNA testing required by subsection I of this section shall be taken by employees or contractors of the Department of Corrections, peace officers, or the county sheriff or employees or contractors of the sheriff's office. The individuals shall be properly trained to collect blood or saliva samples. Persons collecting blood or saliva for DNA testing pursuant to this section shall be immune from civil liabilities arising from this activity. All collectors of DNA samples shall ensure the collection of samples are mailed to the Oklahoma State Bureau of Investigation within ten (10) days of the time the subject appears for testing or within ten (10) days of the date the subject comes into physical custody to serve a term of incarceration. All collectors of DNA samples shall use sample kits provided by the OSBI and procedures promulgated by the OSBI. Persons subject to DNA testing who are not received at the Lexington Assessment and Reception Center shall be required to pay a fee of Fifteen Dollars ($15.00) to the agency collecting the sample for submission to the OSBI Combined DNA Index System (CODIS) Database. Any fees collected pursuant to this subsection shall be deposited in the revolving account or the service fee account of the collection agency or department.
K. When sentencing a person who has been convicted of a crime that would subject that person to the provisions of the Sex Offenders Registration Act, neither the court nor the district attorney shall be allowed to waive or exempt such person from the registration requirements of the Sex Offenders Registration Act.

SECTION 12. REPEALER 22 O.S. 2021, Section 524, is hereby repealed.

SECTION 13. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

COMMITTEE REPORT BY: COMMITTEE ON GOVERNMENT MODERNIZATION AND TECHNOLOGY, dated 04/12/2023 - DO PASS, As Amended.