

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 59th Legislature (2024)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3220

By: West (Kevin) and **Hardin** of
the House

and

Weaver of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to driving under the influence;
12 amending 22 O.S. 2021, Section 1105, which relates to
13 defendant discharge on giving bail; requiring certain
14 arrested person make bail before release; requiring
15 certain evidence be considered; requiring court make
16 certain consideration regarding bail amount; amending
17 47 O.S. 2021, Section 10-104, which relates to duty
18 to give information and render aid; removing drug and
19 alcohol testing requirement; amending 47 O.S. 2021,
20 Section 11-902, which relates to persons under the
21 influence of alcohol or other intoxicating substance
22 or combination thereof; stating certain timing
23 requirements for administration of tests do not
24 apply; amending 47 O.S. 2021, Section 752, as amended
 by Section 22, Chapter 310, O.S.L. 2023 (47 O.S.
 Supp. 2023, Section 752), which relates to
 administration of tests; modifying list of written
 statements authorizing the certain withdrawal of
 blood; and providing an effective date.

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

1 SECTION 1. AMENDATORY 22 O.S. 2021, Section 1105, is
2 amended to read as follows:

3 Section 1105. A. Except as otherwise provided by this section,
4 upon the allowance of bail and the execution of the requisite
5 recognizance, bond, or undertaking to the state, the magistrate,
6 judge, or court shall, if the defendant is in custody, make and sign
7 an order for discharge. The court, in its discretion, may prescribe
8 by court rule the conditions under which the court clerk or deputy
9 court clerk, or the sheriff or deputy sheriff, may prepare and
10 execute an order of release on behalf of the court.

11 B. No police officer or sheriff may release a person arrested
12 for a violation of an ex parte or final protective order as provided
13 in Sections 60.2 and 60.3 of this title, or arrested for an act
14 constituting domestic abuse as specified in Section 644 of Title 21
15 of the Oklahoma Statutes, or arrested for any act constituting
16 domestic abuse, stalking or harassment as defined by Section 60.1 of
17 this title, or arrested for an act constituting domestic assault and
18 battery or domestic assault and battery with a deadly weapon
19 pursuant to Section 644 of Title 21 of the Oklahoma Statutes,
20 without the violator appearing before a magistrate, judge or court.
21 To the extent that any of the following information is available to
22 the court, the magistrate, judge or court shall consider, in
23 addition to any other circumstances, before determining bond and
24

1 other conditions of release as necessary for the protection of the
2 alleged victim, the following:

3 1. Whether the person has a history of domestic violence or a
4 history of other violent acts;

5 2. The mental health of the person;

6 3. Whether the person has a history of violating the orders of
7 any court or governmental entity;

8 4. Whether the person is potentially a threat to any other
9 person;

10 5. Whether the person has a history of abusing alcohol or any
11 controlled substance;

12 6. Whether the person has access to deadly weapons or a history
13 of using deadly weapons;

14 7. The severity of the alleged violence that is the basis of
15 the alleged offense including, but not limited to:

16 a. the duration of the alleged violent incident,

17 b. whether the alleged violent incident involved serious
18 physical injury,

19 c. whether the alleged violent incident involved sexual
20 assault,

21 d. whether the alleged violent incident involved
22 strangulation,

23 e. whether the alleged violent incident involved abuse
24 during the pregnancy of the alleged victim,

1 f. whether the alleged violent incident involved the
2 abuse of pets, or

3 g. whether the alleged violent incident involved forcible
4 entry to gain access to the alleged victim;

5 8. Whether a separation of the person from the alleged victim
6 or a termination of the relationship between the person and the
7 alleged victim has recently occurred or is pending;

8 9. Whether the person has exhibited obsessive or controlling
9 behaviors toward the alleged victim including, but not limited to,
10 stalking, surveillance, or isolation of the alleged victim;

11 10. Whether the person has expressed suicidal or homicidal
12 ideations; and

13 11. Any information contained in the complaint and any police
14 reports, affidavits, or other documents accompanying the complaint.

15 C. A person arrested for:

16 1. A violation of an ex parte or final protective order as
17 provided in Sections 60.2 and 60.3 of this title;

18 2. An act constituting domestic abuse, domestic assault and
19 battery or domestic assault and battery with a deadly weapon as
20 specified in Section 644 of Title 21 of the Oklahoma Statutes; or

21 3. An act constituting domestic abuse, stalking or harassment
22 as defined by Section 60.1 of this title,

23 shall not be eligible for a personal recognizance bond pursuant to
24 Section 1108.1 of this title.

1 D. No police officer or sheriff may release a person arrested
2 for any violation of subsection G of Section 2-401 of Title 63 of
3 the Oklahoma Statutes, without the violator appearing before a
4 magistrate, judge, or court. In determining bond and other
5 conditions of release, the magistrate, judge, or court shall
6 consider any evidence that the person is in any manner dependent
7 upon a controlled dangerous substance or has a pattern of regular,
8 illegal use of any controlled dangerous substance. A rebuttable
9 presumption that no conditions of release on bond would assure the
10 safety of the community or any person therein shall arise if the
11 state shows by clear and convincing evidence:

12 1. The person was arrested for a violation of subsection G of
13 Section 2-401 of Title 63 of the Oklahoma Statutes, relating to
14 manufacturing or attempting to manufacture a controlled dangerous
15 substance, or possessing any of the substances listed in subsection
16 G of Section 2-401 of Title 63 of the Oklahoma Statutes with the
17 intent to manufacture a controlled dangerous substance; and

18 2. The person is in any manner dependent upon a controlled
19 dangerous substance or has a pattern of regular illegal use of a
20 controlled dangerous substance, and the violation referred to in
21 paragraph 1 of this subsection was committed or attempted in order
22 to maintain or facilitate the dependence or pattern of illegal use
23 in any manner.

24

1 E. No police officer or sheriff may release a person arrested
2 for a second or subsequent violation of Section 11-902 of Title 47
3 of the Oklahoma Statutes, without the granting of bail by a
4 magistrate, court, judge, or on-call judge, whether by telephone or
5 in person. In determining bond and other conditions of release, the
6 magistrate, judge, on-call judge or court shall consider any
7 evidence that the person is in any manner dependent upon alcohol or
8 a controlled dangerous substance or has a pattern of regular abuse
9 of alcohol or the illegal use of any controlled dangerous substance.
10 If the person was arrested for any crime provided for in Section 11-
11 902 of Title 47 of the Oklahoma Statutes, the court shall consider
12 the threat the person poses to the public safety and shall present
13 written findings on the bail amount.

14 SECTION 2. AMENDATORY 47 O.S. 2021, Section 10-104, is
15 amended to read as follows:

16 Section 10-104. ~~A.~~ The driver of any vehicle involved in an
17 accident resulting in injury to or death of any person or damage to
18 any vehicle which is driven or attended by any person shall give his
19 or her correct name, address and registration number of the vehicle
20 he or she is driving, and shall upon request exhibit his or her
21 driver license and his or her security verification form, as defined
22 in Section 7-600 of this title, to the person struck or the driver
23 or occupant of or person attending any vehicle collided with, and
24 shall render to any person injured in such accident reasonable

1 assistance, including the carrying, or the making of arrangements
2 for the carrying, of such person to a physician, surgeon or hospital
3 for medical or surgical treatment if it is apparent that such
4 treatment is necessary or if such carrying is requested by the
5 injured person. Any driver who provides information required by
6 this section which is intentionally inaccurate shall be subject to
7 the provisions of Section 10-103 of this title.

8 ~~B. Any driver of any vehicle involved in an accident who could
9 be cited for any traffic offense where said accident resulted in the
10 immediate death or great bodily injury, as defined in subsection B
11 of Section 646 of Title 21 of the Oklahoma Statutes, of any person
12 shall submit to drug and alcohol testing as soon as practicable
13 after such accident occurs. The traffic offense violation shall
14 constitute probable cause for purposes of Section 752 of this title
15 and the procedures found in Section 752 of this title shall be
16 followed to determine the presence of alcohol or controlled
17 dangerous substances within the driver's blood system.~~

18 SECTION 3. AMENDATORY 47 O.S. 2021, Section 11-902, is
19 amended to read as follows:

20 Section 11-902. A. It is unlawful and punishable as provided
21 in this section for any person to drive, operate, or be in actual
22 physical control of a motor vehicle within this state, whether upon
23 public roads, highways, streets, turnpikes, other public places or
24

1 upon any private road, street, alley or lane which provides access
2 to one or more single or multi-family dwellings, who:

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

7 2. Is under the influence of alcohol;

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

14 4. Is under the influence of any intoxicating substance other
15 than alcohol which may render such person incapable of safely
16 driving or operating a motor vehicle. The timing requirement for
17 the administration of tests pursuant to Section 756 of this title
18 shall not apply to this paragraph; or

19 5. Is under the combined influence of alcohol and any other
20 intoxicating substance which may render such person incapable of
21 safely driving or operating a motor vehicle. The timing requirement
22 for the administration of tests pursuant to Section 756 of this
23 title shall not apply to this paragraph.

24

1 B. The fact that any person charged with a violation of this
2 section is or has been lawfully entitled to use alcohol or a
3 controlled dangerous substance or any other intoxicating substance
4 shall not constitute a defense against any charge of violating this
5 section.

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

- 9 a. participate in an assessment and evaluation pursuant
10 to subsection G of this section and shall follow all
11 recommendations made in the assessment and evaluation,
- 12 b. be punished by imprisonment in jail for not less than
13 ten (10) days nor more than one (1) year, and
- 14 c. be fined not more than One Thousand Dollars
15 (\$1,000.00).

16 2. Any person who, having been convicted of or having received
17 deferred judgment for a violation of this section or a violation
18 pursuant to the provisions of any law of this state or another state
19 prohibiting the offenses provided in this section, Section 11-904 of
20 this title or paragraph 4 of subsection A of Section 852.1 of Title
21 21 of the Oklahoma Statutes, or having a prior conviction in a
22 municipal criminal court of record for the violation of a municipal
23 ordinance prohibiting the offense provided for in this section
24 commits a subsequent violation of this section within ten (10) years

1 of the date following the completion of the execution of said
2 sentence or deferred judgment shall, upon conviction, be guilty of a
3 felony and shall participate in an assessment and evaluation
4 pursuant to subsection G of this section and shall be sentenced to:

5 a. follow all recommendations made in the assessment and
6 evaluation for treatment at the defendant's expense,
7 or

8 b. placement in the custody of the Department of
9 Corrections for not less than one (1) year and not to
10 exceed five (5) years and a fine of not more than Two
11 Thousand Five Hundred Dollars (\$2,500.00), or

12 c. treatment, imprisonment and a fine within the
13 limitations prescribed in subparagraphs a and b of
14 this paragraph.

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

19 3. Any person who commits a violation of this section after
20 having been convicted of a felony offense pursuant to the provisions
21 of this section or a violation pursuant to the provisions of any law
22 of this state or another state prohibiting the offenses provided for
23 in this section, Section 11-904 of this title or paragraph 4 of
24 subsection A of Section 852.1 of Title 21 of the Oklahoma Statutes

1 shall be guilty of a felony and participate in an assessment and
2 evaluation pursuant to subsection G of this section and shall be
3 sentenced to:

- 4 a. follow all recommendations made in the assessment and
5 evaluation for treatment at the defendant's expense,
6 two hundred forty (240) hours of community service and
7 use of an ignition interlock device, as provided by
8 subparagraph n of paragraph 1 of subsection A of
9 Section 991a of Title 22 of the Oklahoma Statutes, or
- 10 b. placement in the custody of the Department of
11 Corrections for not less than one (1) year and not to
12 exceed ten (10) years and a fine of not more than Five
13 Thousand Dollars (\$5,000.00), or
- 14 c. treatment, imprisonment and a fine within the
15 limitations prescribed in subparagraphs a and b of
16 this paragraph.

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

21 4. Any person who commits a violation of this section after
22 having been twice convicted of a felony offense pursuant to the
23 provisions of this section or a violation pursuant to the provisions
24 of any law of this state or another state prohibiting the offenses

1 provided for in this section, Section 11-904 of this title or
2 paragraph 4 of subsection A of Section 852.1 of Title 21 of the
3 Oklahoma Statutes shall be guilty of a felony and participate in an
4 assessment and evaluation pursuant to subsection G of this section
5 and shall be sentenced to:

6 a. follow all recommendations made in the assessment and
7 evaluation for treatment at the defendant's expense,
8 followed by not less than one (1) year of supervision
9 and periodic testing at the defendant's expense, four
10 hundred eighty (480) hours of community service, and
11 use of an ignition interlock device, as provided by
12 subparagraph n of paragraph 1 of subsection A of
13 Section 991a of Title 22 of the Oklahoma Statutes, for
14 a minimum of thirty (30) days, or

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

19 c. treatment, imprisonment and a fine within the
20 limitations prescribed in subparagraphs a and b of
21 this paragraph.

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

1 5. Any person who, after a previous conviction of a violation
2 of murder in the second degree or manslaughter in the first degree
3 in which the death was caused as a result of driving under the
4 influence of alcohol or other intoxicating substance, is convicted
5 of a violation of this section shall be guilty of a felony and shall
6 be punished by imprisonment in the custody of the Department of
7 Corrections for not less than five (5) years and not to exceed
8 twenty (20) years, and a fine of not more than Ten Thousand Dollars
9 (\$10,000.00).

10 6. Provided, however, a conviction from another state shall not
11 be used to enhance punishment pursuant to the provisions of this
12 subsection if that conviction is based on a blood or breath alcohol
13 concentration of less than eight-hundredths (0.08).

14 7. In any case in which a defendant is charged with driving
15 under the influence of alcohol or other intoxicating substance
16 offense within any municipality with a municipal court other than a
17 court of record, the charge shall be presented to the county's
18 district attorney and filed with the district court of the county
19 within which the municipality is located.

20 D. Any person who is convicted of a violation of driving under
21 the influence with a blood or breath alcohol concentration of
22 fifteen-hundredths (0.15) or more pursuant to this section shall be
23 deemed guilty of aggravated driving under the influence. A person
24 convicted of aggravated driving under the influence shall

1 participate in an assessment and evaluation pursuant to subsection G
2 of this section and shall comply with all recommendations for
3 treatment. Such person shall be sentenced as provided in paragraph
4 1, 2, 3, 4 or 5 of subsection C of this section and to:

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

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

11 E. When a person is sentenced to imprisonment in the custody of
12 the Department of Corrections, the person shall be processed through
13 the Lexington Assessment and Reception Center or at a place
14 determined by the Director of the Department of Corrections. The
15 Department of Corrections shall classify and assign the person to
16 one or more of the following:

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

20 2. A correctional facility operated by the Department of
21 Corrections with assignment to substance abuse treatment.

22 Successful completion of a Department-of-Corrections-approved
23 substance abuse treatment program shall satisfy the recommendation
24 for a ten-hour or twenty-four-hour alcohol and drug substance abuse

1 course or treatment program or both. Successful completion of an
2 approved Department of Corrections substance abuse treatment program
3 may precede or follow the required assessment.

4 F. The Department of Public Safety is hereby authorized to
5 reinstate any suspended or revoked driving privilege when the person
6 meets the statutory requirements which affect the existing driving
7 privilege.

8 G. Any person who is found guilty of a violation of the
9 provisions of this section shall be ordered to participate in an
10 alcohol and drug substance abuse evaluation and assessment program
11 offered by a certified assessment agency or certified assessor for
12 the purpose of evaluating and assessing the receptivity to treatment
13 and prognosis of the person and shall follow all recommendations
14 made in the assessment and evaluation for treatment. The court
15 shall order the person to reimburse the agency or assessor for the
16 evaluation and assessment. Payment shall be remitted by the
17 defendant or on behalf of the defendant by any third party;
18 provided, no state-appropriated funds are utilized. The fee for an
19 evaluation and assessment shall be the amount provided in subsection
20 C of Section 3-460 of Title 43A of the Oklahoma Statutes. The
21 evaluation and assessment shall be conducted at a certified
22 assessment agency, the office of a certified assessor or at another
23 location as ordered by the court. The agency or assessor shall,
24 within seventy-two (72) hours from the time the person is evaluated

1 and assessed, submit a written report to the court for the purpose
2 of assisting the court in its sentencing determination. The court
3 shall, as a condition of any sentence imposed, including deferred
4 and suspended sentences, require the person to participate in and
5 successfully complete all recommendations from the evaluation, such
6 as an alcohol and substance abuse treatment program pursuant to
7 Section 3-452 of Title 43A of the Oklahoma Statutes. If such report
8 indicates that the evaluation and assessment shows that the
9 defendant would benefit from a ten-hour or twenty-four-hour alcohol
10 and drug substance abuse course or a treatment program or both, the
11 court shall, as a condition of any sentence imposed, including
12 deferred and suspended sentences, require the person to follow all
13 recommendations identified by the evaluation and assessment and
14 ordered by the court. No person, agency or facility operating an
15 evaluation and assessment program certified by the Department of
16 Mental Health and Substance Abuse Services shall solicit or refer
17 any person evaluated and assessed pursuant to this section for any
18 treatment program or substance abuse service in which such person,
19 agency or facility has a vested interest; however, this provision
20 shall not be construed to prohibit the court from ordering
21 participation in or any person from voluntarily utilizing a
22 treatment program or substance abuse service offered by such person,
23 agency or facility. If a person is sentenced to imprisonment in the
24 custody of the Department of Corrections and the court has received

1 a written evaluation report pursuant to the provisions of this
2 subsection, the report shall be furnished to the Department of
3 Corrections with the judgment and sentence. Any evaluation and
4 assessment report submitted to the court pursuant to the provisions
5 of this subsection shall be handled in a manner which will keep such
6 report confidential from the general public's review. Nothing
7 contained in this subsection shall be construed to prohibit the
8 court from ordering judgment and sentence in the event the defendant
9 fails or refuses to comply with an order of the court to obtain the
10 evaluation and assessment required by this subsection. If the
11 defendant fails or refuses to comply with an order of the court to
12 obtain the evaluation and assessment, the Department of Public
13 Safety shall not reinstate driving privileges until the defendant
14 has complied in full with such order. Nothing contained in this
15 subsection shall be construed to prohibit the court from ordering
16 judgment and sentence and any other sanction authorized by law for
17 failure or refusal to comply with an order of the court.

18 H. Any person who is found guilty of a violation of the
19 provisions of this section shall be required by the court to attend
20 a victims impact panel program, as defined in subsection H of
21 Section 991a of Title 22 of the Oklahoma Statutes, if such a program
22 is offered in the county where the judgment is rendered, and to pay
23 a fee of Seventy-five Dollars (\$75.00), as set by the governing
24 authority of the program and approved by the court, to the program

1 to offset the cost of participation by the defendant, if in the
2 opinion of the court the defendant has the ability to pay such fee.

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

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

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

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

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

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

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

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

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

7 SECTION 4. AMENDATORY 47 O.S. 2021, Section 752, as
8 amended by Section 22, Chapter 310, O.S.L. 2023 (47 O.S. Supp. 2023,
9 Section 752), is amended to read as follows:

10 Section 752. A. Only a licensed medical doctor, licensed
11 osteopathic physician, licensed chiropractic physician, registered
12 nurse, licensed practical nurse, physician's assistant, certified by
13 any state's appropriate licensing authority, an employee of a
14 hospital or other health care facility authorized by the hospital or
15 health care facility to withdraw blood, or individuals licensed in
16 accordance with Section 1-2505 of Title 63 of the Oklahoma Statutes
17 as an Intermediate Emergency Medical Technician, an Advanced
18 Emergency Medical Technician or a Paramedic, acting within the scope
19 of practice prescribed by their medical director, acting at the
20 request of a law enforcement officer may withdraw blood for the
21 purpose of having a determination made of its concentration of
22 alcohol or the presence or concentration of other intoxicating
23 substance. Only qualified persons authorized by the Board may

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1 collect breath, saliva or urine, or administer tests of breath under
2 the provisions of this title.

3 B. If the person authorized to withdraw blood as specified in
4 subsection A of this section is presented with a written statement:

5 1. Authorizing blood withdrawal signed by the person whose
6 blood is to be withdrawn;

7 2. Signed by a duly authorized peace officer that the person
8 whose blood is to be withdrawn has agreed to the withdrawal of
9 blood;

10 3. Signed by a duly authorized peace officer that ~~the person~~
11 ~~whose blood is to be withdrawn has been placed under arrest and that~~
12 ~~the officer has probable cause to believe that the person, while~~
13 ~~intoxicated, has operated a motor vehicle in such manner as to have~~
14 ~~caused the death or serious physical injury of another person, or~~
15 ~~the person has been involved in a traffic accident and has been~~
16 ~~removed from the scene of the accident that resulted in the death or~~
17 ~~great bodily injury, as defined in subsection B of Section 646 of~~
18 ~~Title 21 of the Oklahoma Statutes, of any person to a hospital or~~
19 ~~other health care facility outside the State of Oklahoma before the~~
20 ~~law enforcement officer was able to effect an arrest for such~~
21 ~~offense~~ there are exigent circumstances which necessitate the
22 withdrawal of blood; or

23 4. In the form of an order from a district court that blood be
24 withdrawn, the person authorized to withdraw the blood and the

1 hospital or other health care facility where the withdrawal occurs
2 may rely on such a statement or order as evidence that the person
3 has consented to or has been required to submit to the clinical
4 procedure and shall not require the person to sign any additional
5 consent or waiver form. In such a case, the person authorized to
6 perform the procedure, the employer of such person and the hospital
7 or other health care facility shall not be liable in any action
8 alleging lack of consent or lack of informed consent.

9 C. No person specified in subsection A of this section, no
10 employer of such person and no hospital or other health care
11 facility where blood is withdrawn shall incur any civil or criminal
12 liability as a result of the proper withdrawal of blood when acting
13 at the request of a law enforcement officer by the provisions of
14 Section 751 or 753 of this title, or when acting in reliance upon a
15 signed statement or court order as provided in this section, if the
16 act is performed in a reasonable manner according to generally
17 accepted clinical practice. No person specified in subsection A of
18 this section shall incur any civil or criminal liability as a result
19 of the proper collection of breath, saliva or urine when acting at
20 the request of a law enforcement officer under the provisions of
21 Section 751 or 753 of this title or when acting pursuant to a court
22 order.

23 D. The blood, breath, saliva or urine specimens obtained shall
24 be tested by the appropriate test as determined by the Board, or

1 tested by a laboratory that is exempt from the Board rules pursuant
2 to Section 759 of this title, to determine the alcohol concentration
3 thereof, or the presence or concentration of any other intoxicating
4 substance which might have affected the ability of the person tested
5 to operate a motor vehicle safely.

6 E. When blood is withdrawn for testing of its alcohol
7 concentration or other intoxicating substance presence or
8 concentration, at the request of a law enforcement officer, a
9 sufficient quantity of the same specimen shall be obtained to enable
10 the tested person, at his or her own option and expense, to have an
11 independent analysis made of such specimen. The excess blood
12 specimen shall be retained by a laboratory approved by the Board in
13 accordance with the rules and regulations of the Board or by a
14 laboratory that is exempt from the Board rules pursuant to Section
15 759 of this title, for sixty (60) days from the date of collection.
16 At any time within that period, the tested person or his or her
17 attorney may direct that such blood specimen be sent or delivered to
18 a laboratory of his or her own choosing and approved by the Board
19 for an independent analysis. Neither the tested person, nor any
20 agent of such person, shall have access to the additional blood
21 specimen prior to the completion of the independent analysis, except
22 the analyst performing the independent analysis and agents of the
23 analyst.

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1 F. The costs of collecting blood specimens for the purpose of
2 determining the alcohol or other intoxicating substance thereof, by
3 or at the direction of a law enforcement officer, shall be borne by
4 the law enforcement agency employing such officer; provided, if the
5 person is convicted for any offense involving the operation of a
6 motor vehicle while under the influence of or while impaired by
7 alcohol or an intoxicating substance, or both, as a direct result of
8 the incident which caused the collection of blood specimens, an
9 amount equal to the costs shall become a part of the court costs of
10 the person and shall be collected by the court and remitted to the
11 law enforcement agency bearing the costs. The cost of collecting,
12 retaining and sending or delivering to an independent laboratory the
13 excess specimens of blood for independent analysis at the option of
14 the tested person shall also be borne by such law enforcement
15 agency. The cost of the independent analysis of such specimen of
16 blood shall be borne by the tested person at whose option such
17 analysis is performed. The tested person, or his or her agent,
18 shall make all necessary arrangements for the performance of such
19 independent analysis other than the forwarding or delivery of such
20 specimen.

21 G. Tests of blood or breath for the purpose of determining the
22 alcohol concentration thereof, and tests of blood for the purpose of
23 determining the presence or concentration of any other intoxicating
24 substance therein, under the provisions of this title, whether

1 administered by or at the direction of a law enforcement officer or
2 administered independently, at the option of the tested person, on
3 the excess specimen of such person's blood to be considered valid
4 and admissible in evidence under the provisions of this title, shall
5 have been administered in accordance with Section 759 of this title.

6 H. Any person who has been arrested for any offense arising out
7 of acts alleged to have been committed while the person was
8 operating or in actual physical control of a motor vehicle while
9 under the influence of alcohol, any other intoxicating substance or
10 the combined influence of alcohol and any other intoxicating
11 substance who is not requested by a law enforcement officer to
12 submit to a test shall be entitled to have an independent test of
13 his or her blood for the purpose of determining its alcohol
14 concentration or the presence or concentration of any other
15 intoxicating substance therein, performed by a person of his or her
16 own choosing who is qualified as stipulated in this section. The
17 arrested person shall bear the responsibility for making all
18 necessary arrangements for the administration of such independent
19 test and for the independent analysis of any specimens obtained, and
20 bear all costs thereof. The failure or inability of the arrested
21 person to obtain an independent test shall not preclude the
22 admission of other competent evidence bearing upon the question of
23 whether such person was under the influence of alcohol, or any other

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1 intoxicating substance or the combined influence of alcohol and any
2 other intoxicating substance.

3 I. Any agency or laboratory certified by the Board or any
4 agency or laboratory that is exempt from the Board rules pursuant to
5 Section 759 of this title, which analyses blood shall make available
6 a written report of the results of the test administered by or at
7 the direction of the law enforcement officer to:

- 8 1. The tested person, or his or her attorney;
- 9 2. The Commissioner of Public Safety;
- 10 3. The Director of Service Oklahoma; and
- 11 4. The Fatality Analysis Reporting System (FARS) analyst of the
12 state, upon request.

13 The results of the tests provided for in this title shall be
14 admissible in all civil actions, including administrative hearings
15 regarding driving privileges.

16 SECTION 5. This act shall become effective November 1, 2024.

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18 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 02/27/2024 -
19 DO PASS, As Amended and Coauthored.

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