

1 ENGROSSED HOUSE
2 BILL NO. 3220

By: West (Kevin) and Hardin of
the House

3 and

4 Weaver of the Senate
5

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

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

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

Section 1105. A. Except as otherwise provided by this section,
upon the allowance of bail and the execution of the requisite
recognizance, bond, or undertaking to the state, the magistrate,
judge, or court shall, if the defendant is in custody, make and sign
an order for discharge. The court, in its discretion, may prescribe

1 by court rule the conditions under which the court clerk or deputy
2 court clerk, or the sheriff or deputy sheriff, may prepare and
3 execute an order of release on behalf of the court.

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

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

21 2. The mental health of the person;

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

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- 1 4. Whether the person is potentially a threat to any other
2 person;
- 3 5. Whether the person has a history of abusing alcohol or any
4 controlled substance;
- 5 6. Whether the person has access to deadly weapons or a history
6 of using deadly weapons;
- 7 7. The severity of the alleged violence that is the basis of
8 the alleged offense including, but not limited to:
- 9 a. the duration of the alleged violent incident,
10 b. whether the alleged violent incident involved serious
11 physical injury,
12 c. whether the alleged violent incident involved sexual
13 assault,
14 d. whether the alleged violent incident involved
15 strangulation,
16 e. whether the alleged violent incident involved abuse
17 during the pregnancy of the alleged victim,
18 f. whether the alleged violent incident involved the
19 abuse of pets, or
20 g. whether the alleged violent incident involved forcible
21 entry to gain access to the alleged victim;
- 22 8. Whether a separation of the person from the alleged victim
23 or a termination of the relationship between the person and the
24 alleged victim has recently occurred or is pending;

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

4 10. Whether the person has expressed suicidal or homicidal
5 ideations; and

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

8 C. A person arrested for:

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

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

14 3. An act constituting domestic abuse, stalking or harassment
15 as defined by Section 60.1 of this title,
16 shall not be eligible for a personal recognizance bond pursuant to
17 Section 1108.1 of this title.

18 D. No police officer or sheriff may release a person arrested
19 for any violation of subsection G of Section 2-401 of Title 63 of
20 the Oklahoma Statutes, without the violator appearing before a
21 magistrate, judge, or court. In determining bond and other
22 conditions of release, the magistrate, judge, or court shall
23 consider any evidence that the person is in any manner dependent
24 upon a controlled dangerous substance or has a pattern of regular,

1 illegal use of any controlled dangerous substance. A rebuttable
2 presumption that no conditions of release on bond would assure the
3 safety of the community or any person therein shall arise if the
4 state shows by clear and convincing evidence:

5 1. The person was arrested for a violation of subsection G of
6 Section 2-401 of Title 63 of the Oklahoma Statutes, relating to
7 manufacturing or attempting to manufacture a controlled dangerous
8 substance, or possessing any of the substances listed in subsection
9 G of Section 2-401 of Title 63 of the Oklahoma Statutes with the
10 intent to manufacture a controlled dangerous substance; and

11 2. The person is in any manner dependent upon a controlled
12 dangerous substance or has a pattern of regular illegal use of a
13 controlled dangerous substance, and the violation referred to in
14 paragraph 1 of this subsection was committed or attempted in order
15 to maintain or facilitate the dependence or pattern of illegal use
16 in any manner.

17 E. No police officer or sheriff may release a person arrested
18 for a second or subsequent violation of Section 11-902 of Title 47
19 of the Oklahoma Statutes, without the granting of bail by a
20 magistrate, court, judge, or on-call judge, whether by telephone or
21 in person. In determining bond and other conditions of release, the
22 magistrate, judge, on-call judge or court shall consider any
23 evidence that the person is in any manner dependent upon alcohol or
24 a controlled dangerous substance or has a pattern of regular abuse

1 of alcohol or the illegal use of any controlled dangerous substance.
2 If the person was arrested for any crime provided for in Section 11-
3 902 of Title 47 of the Oklahoma Statutes, the court shall consider
4 the threat the person poses to the public safety and shall present
5 written findings on the bail amount.

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

8 Section 10-104. ~~A.~~ The driver of any vehicle involved in an
9 accident resulting in injury to or death of any person or damage to
10 any vehicle which is driven or attended by any person shall give his
11 or her correct name, address and registration number of the vehicle
12 he or she is driving, and shall upon request exhibit his or her
13 driver license and his or her security verification form, as defined
14 in Section 7-600 of this title, to the person struck or the driver
15 or occupant of or person attending any vehicle collided with, and
16 shall render to any person injured in such accident reasonable
17 assistance, including the carrying, or the making of arrangements
18 for the carrying, of such person to a physician, surgeon or hospital
19 for medical or surgical treatment if it is apparent that such
20 treatment is necessary or if such carrying is requested by the
21 injured person. Any driver who provides information required by
22 this section which is intentionally inaccurate shall be subject to
23 the provisions of Section 10-103 of this title.

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

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

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

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

23 2. Is under the influence of alcohol;

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

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

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

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

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

- 1 a. participate in an assessment and evaluation pursuant
2 to subsection G of this section and shall follow all
3 recommendations made in the assessment and evaluation,
4 b. be punished by imprisonment in jail for not less than
5 ten (10) days nor more than one (1) year, and
6 c. be fined not more than One Thousand Dollars
7 (\$1,000.00).

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

- 21 a. follow all recommendations made in the assessment and
22 evaluation for treatment at the defendant's expense,
23 or
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- 1 b. placement in the custody of the Department of
2 Corrections for not less than one (1) year and not to
3 exceed five (5) years and a fine of not more than Two
4 Thousand Five Hundred Dollars (\$2,500.00), or
5 c. treatment, imprisonment and a fine within the
6 limitations prescribed in subparagraphs a and b of
7 this paragraph.

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

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

- 21 a. follow all recommendations made in the assessment and
22 evaluation for treatment at the defendant's expense,
23 two hundred forty (240) hours of community service and
24 use of an ignition interlock device, as provided by

- 1 subparagraph n of paragraph 1 of subsection A of
2 Section 991a of Title 22 of the Oklahoma Statutes, or
3 b. placement in the custody of the Department of
4 Corrections for not less than one (1) year and not to
5 exceed ten (10) years and a fine of not more than Five
6 Thousand Dollars (\$5,000.00), or
7 c. treatment, imprisonment and a fine within the
8 limitations prescribed in subparagraphs a and b of
9 this paragraph.

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

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

- 23 a. follow all recommendations made in the assessment and
24 evaluation for treatment at the defendant's expense,

1 followed by not less than one (1) year of supervision
2 and periodic testing at the defendant's expense, four
3 hundred eighty (480) hours of community service, and
4 use of an ignition interlock device, as provided by
5 subparagraph n of paragraph 1 of subsection A of
6 Section 991a of Title 22 of the Oklahoma Statutes, for
7 a minimum of thirty (30) days, 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 twenty (20) years and a fine of not more than
11 Five Thousand Dollars (\$5,000.00), 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 person does not undergo residential or inpatient
16 treatment pursuant to subsection G of this section the person shall
17 serve a term of imprisonment of at least ten (10) days.

18 5. Any person who, after a previous conviction of a violation
19 of murder in the second degree or manslaughter in the first degree
20 in which the death was caused as a result of driving under the
21 influence of alcohol or other intoxicating substance, is convicted
22 of a violation of this section shall be guilty of a felony and shall
23 be punished by imprisonment in the custody of the Department of
24 Corrections for not less than five (5) years and not to exceed

1 twenty (20) years, and a fine of not more than Ten Thousand Dollars
2 (\$10,000.00).

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

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

13 D. Any person who is convicted of a violation of driving under
14 the influence with a blood or breath alcohol concentration of
15 fifteen-hundredths (0.15) or more pursuant to this section shall be
16 deemed guilty of aggravated driving under the influence. A person
17 convicted of aggravated driving under the influence shall
18 participate in an assessment and evaluation pursuant to subsection G
19 of this section and shall comply with all recommendations for
20 treatment. Such person shall be sentenced as provided in paragraph
21 1, 2, 3, 4 or 5 of subsection C of this section and to:

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

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

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

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

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

22 F. The Department of Public Safety is hereby authorized to
23 reinstate any suspended or revoked driving privilege when the person
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1 meets the statutory requirements which affect the existing driving
2 privilege.

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

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

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

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

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

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

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

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

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

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

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

16 1. The results of any standardized field sobriety test
17 including, but not limited to, the horizontal gaze nystagmus (HGN)
18 test administered by a person who has completed training in
19 standardized field sobriety testing; or

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

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

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

22 B. If the person authorized to withdraw blood as specified in
23 subsection A of this section is presented with a written statement:
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1 1. Authorizing blood withdrawal signed by the person whose
2 blood is to be withdrawn;

3 2. Signed by a duly authorized peace officer that the person
4 whose blood is to be withdrawn has agreed to the withdrawal of
5 blood;

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

19 4. In the form of an order from a district court that blood be
20 withdrawn, the person authorized to withdraw the blood and the
21 hospital or other health care facility where the withdrawal occurs
22 may rely on such a statement or order as evidence that the person
23 has consented to or has been required to submit to the clinical
24 procedure and shall not require the person to sign any additional

1 consent or waiver form. In such a case, the person authorized to
2 perform the procedure, the employer of such person and the hospital
3 or other health care facility shall not be liable in any action
4 alleging lack of consent or lack of informed consent.

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

19 D. The blood, breath, saliva or urine specimens obtained shall
20 be tested by the appropriate test as determined by the Board, or
21 tested by a laboratory that is exempt from the Board rules pursuant
22 to Section 759 of this title, to determine the alcohol concentration
23 thereof, or the presence or concentration of any other intoxicating
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1 substance which might have affected the ability of the person tested
2 to operate a motor vehicle safely.

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

21 F. The costs of collecting blood specimens for the purpose of
22 determining the alcohol or other intoxicating substance thereof, by
23 or at the direction of a law enforcement officer, shall be borne by
24 the law enforcement agency employing such officer; provided, if the

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

17 G. Tests of blood or breath for the purpose of determining the
18 alcohol concentration thereof, and tests of blood for the purpose of
19 determining the presence or concentration of any other intoxicating
20 substance therein, under the provisions of this title, whether
21 administered by or at the direction of a law enforcement officer or
22 administered independently, at the option of the tested person, on
23 the excess specimen of such person's blood to be considered valid
24

1 and admissible in evidence under the provisions of this title, shall
2 have been administered in accordance with Section 759 of this title.

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

23 I. Any agency or laboratory certified by the Board or any
24 agency or laboratory that is exempt from the Board rules pursuant to

1 Section 759 of this title, which analyses blood shall make available
2 a written report of the results of the test administered by or at
3 the direction of the law enforcement officer to:

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

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

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

13 Passed the House of Representatives the 6th day of March, 2024.

14

15

Presiding Officer of the House
of Representatives

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Passed the Senate the ___ day of _____, 2024.

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Presiding Officer of the Senate

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