

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 1295

By: Brecheen

4
5
6 AS INTRODUCED

7 An Act relating to electronic monitoring; amending 22
8 O.S. 2011, Section 991a, as last amended by Section
9 1, Chapter 157, O.S.L. 2014 (22 O.S. Supp. 2015,
10 Section 991a), which relates to sentencing powers of
11 the courts; authorizing use of electronic monitoring
12 of inmates under certain circumstances; authorizing
13 sheriff to contract for electronic monitoring
14 services; providing for the revocation of electronic
15 monitoring order; defining term; providing exemption
16 from certain liability; amending 57 O.S. 2011,
17 Section 38, as amended by Section 2, Chapter 307,
18 O.S.L. 2015 (57 O.S. Supp. 2015, Section 38), which
19 relates to reimbursement rates for incarcerated
20 inmates; providing rate of reimbursement for inmates
21 on electronic supervision; and providing an effective
22 date.

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

24 SECTION 1. AMENDATORY 22 O.S. 2011, Section 991a, as
last amended by Section 1, Chapter 157, O.S.L. 2014 (22 O.S. Supp.
2015, 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 1. Suspend the execution of sentence in whole or in part, with
2 or without probation. The court, in addition, may order the
3 convicted defendant at the time of sentencing or at any time during
4 the suspended sentence to do one or more of the following:

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

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

23 c. to engage in a term of community service without
24 compensation, according to a schedule consistent with

1 the employment and family responsibilities of the
2 person convicted,

3 d. to pay a reasonable sum into any trust fund,
4 established pursuant to the provisions of Sections 176
5 through 180.4 of Title 60 of the Oklahoma Statutes,
6 and which provides restitution payments by convicted
7 defendants to victims of crimes committed within this
8 state wherein such victim has incurred a financial
9 loss,

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

12 f. to confinement as provided by law together with a term
13 of post-imprisonment community supervision for not
14 less than three (3) years of the total term allowed by
15 law for imprisonment, with or without restitution;
16 provided, however, the authority of this provision is
17 limited to Section 843.5 of Title 21 of the Oklahoma
18 Statutes when the offense involved sexual abuse or
19 sexual exploitation; Sections 681, 741 and 843.1 of
20 Title 21 of the Oklahoma Statutes when the offense
21 involved sexual abuse or sexual exploitation; and
22 Sections 865 et seq., 885, 886, 888, 891, 1021,
23 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and
24 1123 of Title 21 of the Oklahoma Statutes,

1 g. to repay the reward or part of the reward paid by a
2 local certified crime stoppers program and the
3 Oklahoma Reward System. In determining whether the
4 defendant shall repay the reward or part of the
5 reward, the court shall consider the ability of the
6 defendant to make the payment, the financial hardship
7 on the defendant to make the required payment, and the
8 importance of the information to the prosecution of
9 the defendant as provided by the arresting officer or
10 the district attorney with due regard for the
11 confidentiality of the records of the local certified
12 crime stoppers program and the Oklahoma Reward System.
13 The court shall assess this repayment against the
14 defendant as a cost of prosecution. The term
15 "certified" means crime stoppers organizations that
16 annually meet the certification standards for crime
17 stoppers programs established by the Oklahoma Crime
18 Stoppers Association to the extent those standards do
19 not conflict with state statutes. The term "court"
20 refers to all municipal and district courts within
21 this state. The "Oklahoma Reward System" means the
22 reward program established by Section 150.18 of Title
23 74 of the Oklahoma Statutes,
24

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

12 i. to reimburse the Oklahoma State Bureau of
13 Investigation and any authorized law enforcement
14 agency for all costs incurred by that agency for
15 cleaning up an illegal drug laboratory site for which
16 the defendant pleaded guilty, nolo contendere or was
17 convicted. The court clerk shall collect the amount
18 and may retain five percent (5%) of such monies to be
19 deposited in the Court Clerk Revolving Fund to cover
20 administrative costs and shall remit the remainder to
21 the Oklahoma State Bureau of Investigation to be
22 deposited in the OSBI Revolving Fund established by
23 Section 150.19a of Title 74 of the Oklahoma Statutes
24

1 or to the general fund wherein the other law
2 enforcement agency is located,

3 j. to pay a reasonable sum to the Crime Victims
4 Compensation Board, created by ~~Section 142.2 et seq.~~
5 ~~of Title 21 of the Oklahoma Statutes~~ the Oklahoma
6 Crime Victims Compensation Act, for the benefit of
7 crime victims,

8 k. to reimburse the court fund for amounts paid to court-
9 appointed attorneys for representing the defendant in
10 the case in which the person is being sentenced,

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

20 m. to be placed in a victims impact panel program, as
21 defined in subsection H of this section, or
22 victim/offender reconciliation program and payment of
23 a fee to the program of not less than Fifteen Dollars
24 (\$15.00) nor more than Sixty Dollars (\$60.00) as set

1 by the governing authority of the program to offset
2 the cost of participation by the defendant. Provided,
3 each victim/offender reconciliation program shall be
4 required to obtain a written consent form voluntarily
5 signed by the victim and defendant that specifies the
6 methods to be used to resolve the issues, the
7 obligations and rights of each person, and the
8 confidentiality of the proceedings. Volunteer
9 mediators and employees of a victim/offender
10 reconciliation program shall be immune from liability
11 and have rights of confidentiality as provided in
12 Section 1805 of Title 12 of the Oklahoma Statutes,
13 n. to install, at the expense of the defendant, an
14 ignition interlock device approved by the Board of
15 Tests for Alcohol and Drug Influence. The device
16 shall be installed upon every motor vehicle operated
17 by the defendant, and the court shall require that a
18 notation of this restriction be affixed to the
19 defendant's driver license. The restriction shall
20 remain on the driver license not exceeding two (2)
21 years to be determined by the court. The restriction
22 may be modified or removed only by order of the court
23 and notice of any modification order shall be given to
24 the Department of Public Safety. Upon the expiration

1 of the period for the restriction, the Department of
2 Public Safety shall remove the restriction without
3 further court order. Failure to comply with the order
4 to install an ignition interlock device or operating
5 any vehicle without a device during the period of
6 restriction shall be a violation of the sentence and
7 may be punished as deemed proper by the sentencing
8 court. As used in this paragraph, "ignition interlock
9 device" means a device that, without tampering or
10 intervention by another person, would prevent the
11 defendant from operating a motor vehicle if the
12 defendant has a blood or breath alcohol concentration
13 of two-hundredths (0.02) or greater,

14 o. to be confined by electronic monitoring administered
15 and supervised by the Department of Corrections or a
16 community sentence provider, and payment of a
17 monitoring fee to the supervising authority, not to
18 exceed Three Hundred Dollars (\$300.00) per month. Any
19 fees collected pursuant to this paragraph shall be
20 deposited with the appropriate supervising authority.
21 Any willful violation of an order of the court for the
22 payment of the monitoring fee shall be a violation of
23 the sentence and may be punished as deemed proper by
24 the sentencing court. As used in this paragraph,

1 "electronic monitoring" means confinement of the
2 defendant within a specified location or locations
3 with supervision by means of an electronic device
4 approved by the Department of Corrections which is
5 designed to detect if the defendant is in the court-
6 ordered location at the required times and which
7 records violations for investigation by a qualified
8 supervisory agency or person,

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

- 1 pursuant to law or rule shall be certified by the
2 appropriate state agency or a national organization,
- 3 q. to submit to periodic testing for alcohol,
4 intoxicating substance, or controlled dangerous
5 substances by a qualified laboratory,
- 6 r. to pay a fee, costs for treatment, education,
7 supervision, participation in a program, or any
8 combination thereof as determined by the court, based
9 upon the defendant's ability to pay the fees or costs,
- 10 s. to be supervised by a Department of Corrections
11 employee, a private supervision provider, or other
12 person designated by the court,
- 13 t. to obtain positive behavior modeling by a trained
14 mentor,
- 15 u. to serve a term of confinement in a restrictive
16 housing facility available in the community,
- 17 v. to serve a term of confinement in the county jail at
18 night or during weekends pursuant to Section 991a-2 of
19 this title or for work release,
- 20 w. to obtain employment or participate in employment-
21 related activities,
- 22 x. to participate in mandatory day reporting to
23 facilities or persons for services, payments, duties
- 24

1 or person-to-person contacts as specified by the
2 court,

3 y. to pay day fines not to exceed fifty percent (50%) of
4 the net wages earned. For purposes of this paragraph,
5 "day fine" means the offender is ordered to pay an
6 amount calculated as a percentage of net daily wages
7 earned. The day fine shall be paid to the local
8 community sentencing system as reparation to the
9 community. Day fines shall be used to support the
10 local system,

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

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

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

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

1 dd. in the case of a person convicted of prostitution
2 pursuant to Section 1029 of Title 21 of the Oklahoma
3 Statutes, require such person to receive counseling
4 for the behavior which may have caused such person to
5 engage in prostitution activities. Such person may be
6 required to receive counseling in areas including but
7 not limited to alcohol and substance abuse, sexual
8 behavior problems, or domestic abuse or child abuse
9 problems,

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

1 supervision. The examination shall be administered by
2 a certified licensed polygraph examiner. The
3 treatment program must be approved by the Department
4 of Corrections or the Department of Mental Health and
5 Substance Abuse Services. Such treatment shall be at
6 the expense of the defendant based on the defendant's
7 ability to pay,

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

17 gg. in the case of a person convicted of any false or
18 bogus check violation, as defined in Section 1541.4 of
19 Title 21 of the Oklahoma Statutes, impose a fee of
20 Twenty-five Dollars (\$25.00) to the victim for each
21 check, and impose a bogus check fee to be paid to the
22 district attorney. The bogus check fee paid to the
23 district attorney shall be equal to the amount
24 assessed as court costs plus Twenty-five Dollars

1 (\$25.00) for each check upon filing of the case in
2 district court. This money shall be deposited in the
3 Bogus Check Restitution Program Fund as established in
4 subsection B of Section 114 of this title.

5 Additionally, the court may require the offender to
6 pay restitution and bogus check fees on any other
7 bogus check or checks that have been submitted to the
8 District Attorney Bogus Check Restitution Program, and

9 hh. any other provision specifically ordered by the court.

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

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

1 a reduction in the fine, costs and costs of prosecution is
2 warranted, the court shall equally apply the same percentage
3 reduction to the fine, costs and costs of prosecution owed by the
4 offender;

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

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

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

20 5. Order the defendant to reimburse the Oklahoma State Bureau
21 of Investigation for all costs incurred by that agency for cleaning
22 up an illegal drug laboratory site for which the defendant pleaded
23 guilty, nolo contendere or was convicted. The court clerk shall
24 collect the amount and may retain five percent (5%) of such monies

1 to be deposited in the Court Clerk Revolving Fund to cover
2 administrative costs and shall remit the remainder to the Oklahoma
3 State Bureau of Investigation to be deposited in the OSBI Revolving
4 Fund established by Section 150.19a of Title 74 of the Oklahoma
5 Statutes;

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

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

15 a. to participate in an alcohol and drug assessment and
16 evaluation by an assessment agency or assessment
17 personnel certified by the Department of Mental Health
18 and Substance Abuse Services pursuant to Section 3-460
19 of Title 43A of the Oklahoma Statutes and, as
20 determined by the assessment, participate in an
21 alcohol and drug substance abuse course or treatment
22 program or both, pursuant to Sections 3-452 and 3-453
23 of Title 43A of the Oklahoma Statutes,
24

1 b. to attend a victims impact panel program, as defined
2 in subsection H of this section, if such a program is
3 offered in the county where the judgment is rendered,
4 and to pay a fee of not less than Fifteen Dollars
5 (\$15.00) nor more than Sixty Dollars (\$60.00) as set
6 by the governing authority of the program and approved
7 by the court, to the program to offset the cost of
8 participation by the defendant, if in the opinion of
9 the court the defendant has the ability to pay such
10 fee,

11 c. to both participate in the alcohol and drug substance
12 abuse course or treatment program, pursuant to
13 subparagraph a of this paragraph and attend a victims
14 impact panel program, pursuant to subparagraph b of
15 this paragraph,

16 d. to install, at the expense of the person, an ignition
17 interlock device approved by the Board of Tests for
18 Alcohol and Drug Influence, upon every motor vehicle
19 operated by such person and to require that a notation
20 of this restriction be affixed to the person's driver
21 license at the time of reinstatement of the license.
22 The restriction shall remain on the driver license for
23 such period as the court shall determine. The
24 restriction may be modified or removed by order of the

1 court and notice of the order shall be given to the
2 Department of Public Safety. Upon the expiration of
3 the period for the restriction, the Department of
4 Public Safety shall remove the restriction without
5 further court order. Failure to comply with the order
6 to install an ignition interlock device or operating
7 any vehicle without such device during the period of
8 restriction shall be a violation of the sentence and
9 may be punished as deemed proper by the sentencing
10 court, or

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

23 8. In addition to the other sentencing powers of the court, in
24 the case of a person convicted of prostitution pursuant to Section

1 1029 of Title 21 of the Oklahoma Statutes, require such person to
2 receive counseling for the behavior which may have caused such
3 person to engage in prostitution activities. Such person may be
4 required to receive counseling in areas including but not limited to
5 alcohol and substance abuse, sexual behavior problems, or domestic
6 abuse or child abuse problems;

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

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

1 Substance Abuse Services. Such treatment shall be at the expense of
2 the defendant based on the defendant's ability to pay;

3 11. In addition to the other sentencing powers of the court,
4 the court, in the case of a person convicted of child abuse or
5 neglect, as defined in Section 1-1-105 of Title 10A of the Oklahoma
6 Statutes, may require the person to undergo treatment or to
7 participate in counseling services. The defendant may be required
8 to pay all or part of the cost of the treatment or counseling
9 services;

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

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

24

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

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

16 16. When an offender, convicted of a nonviolent offense not
17 listed in Section 571 of Title 57 of the Oklahoma Statutes, is
18 sentenced to the Department of Corrections and the offender is
19 detained in a county jail as a result of the reception-scheduling
20 procedure of the Department of Corrections, the court may, upon
21 application of the offender and upon consent of the district
22 attorney and sheriff, order the offender to be confined in the home
23 of the offender or other suitable location and be supervised by
24 electronic monitoring administered by the sheriff of the county in

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

1 expenses, including medical care and treatment expenses. The county
2 and the Department of Corrections shall bear no liability for such
3 living and medical care and treatment expenses of the offender. If
4 the offender is unable to assume such responsibility, the offender
5 shall not be eligible for electronic monitoring. While confined to
6 electronic monitoring, the offender shall receive credit for time
7 served the same as if the offender were confined in the county jail.
8 If, on the effective date of this act, there is any nonviolent
9 offender in any county jail who would qualify for confinement at
10 home or other suitable location supervised by electronic monitoring
11 under the provisions of this paragraph, the sentencing court shall
12 have jurisdiction to make such an order upon application of the
13 offender and with consent of the district attorney and sheriff.

14 The following offenders are not eligible for electronic
15 monitoring as outlined in this section:

- 16 a. offenders convicted of child pornography as defined in
17 this title,
- 18 b. offenders convicted of a felony as defined in this
19 title,
- 20 c. offenders who have outstanding felony warrants or
21 detainers from other jurisdictions,
- 22 d. offenders who have escaped from a penal or
23 correctional institution within the previous ten (10)
24 years,

1 e. offenders convicted of child prostitution as defined
2 in this title, and

3 f. offenders convicted of abuse of a vulnerable adult as
4 defined in Section 10-103 of Title 43A of the Oklahoma
5 Statutes who is a resident of a nursing facility.

6 B. Notwithstanding any other provision of law, any person who
7 is found guilty of a violation of any provision of Section 761 or
8 11-902 of Title 47 of the Oklahoma Statutes or any person pleading
9 guilty or nolo contendere for a violation of any provision of such
10 sections shall be ordered to participate in, prior to sentencing, an
11 alcohol and drug assessment and evaluation by an assessment agency
12 or assessment personnel certified by the Department of Mental Health
13 and Substance Abuse Services for the purpose of evaluating the
14 receptivity to treatment and prognosis of the person. The court
15 shall order the person to reimburse the agency or assessor for the
16 evaluation. The fee shall be the amount provided in subsection C of
17 Section 3-460 of Title 43A of the Oklahoma Statutes. The evaluation
18 shall be conducted at a certified assessment agency, the office of a
19 certified assessor or at another location as ordered by the court.
20 The agency or assessor shall, within seventy-two (72) hours from the
21 time the person is assessed, submit a written report to the court
22 for the purpose of assisting the court in its final sentencing
23 determination. No person, agency or facility operating an alcohol
24 and drug substance abuse evaluation program certified by the

1 Department of Mental Health and Substance Abuse Services shall
2 solicit or refer any person evaluated pursuant to this subsection
3 for any treatment program or alcohol and drug substance abuse
4 service in which such person, agency or facility has a vested
5 interest; however, this provision shall not be construed to prohibit
6 the court from ordering participation in or any person from
7 voluntarily utilizing a treatment program or alcohol and drug
8 substance abuse service offered by such person, agency or facility.
9 If a person is sentenced to the custody of the Department of
10 Corrections and the court has received a written evaluation report
11 pursuant to this subsection, the report shall be furnished to the
12 Department of Corrections with the judgment and sentence. Any
13 evaluation report submitted to the court pursuant to this subsection
14 shall be handled in a manner which will keep such report
15 confidential from the general public's review. Nothing contained in
16 this subsection shall be construed to prohibit the court from
17 ordering judgment and sentence in the event the defendant fails or
18 refuses to comply with an order of the court to obtain the
19 evaluation required by this subsection.

20 C. When sentencing a person convicted of a crime, the court
21 shall first consider a program of restitution for the victim, as
22 well as imposition of a fine or incarceration of the offender. The
23 provisions of paragraph 1 of subsection A of this section shall not
24 apply to defendants being sentenced upon their third or subsequent

1 to their third conviction of a felony or, beginning January 1, 1993,
2 to defendants being sentenced for their second or subsequent felony
3 conviction for violation of Section 11-902 of Title 47 of the
4 Oklahoma Statutes, except as otherwise provided in this subsection.
5 In the case of a person being sentenced for their second or
6 subsequent felony conviction for violation of Section 11-902 of
7 Title 47 of the Oklahoma Statutes, the court may sentence the person
8 pursuant to the provisions of paragraph 1 of subsection A of this
9 section if the court orders the person to submit to electronically
10 monitored home detention administered and supervised by the
11 Department of Corrections pursuant to subparagraph e of paragraph 7
12 of subsection A of this section. Provided, the court may waive
13 these prohibitions upon written application of the district
14 attorney. Both the application and the waiver shall be made part of
15 the record of the case.

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

19 E. Probation, for purposes of subsection A of this section, is
20 a procedure by which a defendant found guilty of a crime, whether
21 upon a verdict or plea of guilty or upon a plea of nolo contendere,
22 is released by the court subject to conditions imposed by the court
23 and subject to supervision by the Department of Corrections, a
24 private supervision provider or other person designated by the

1 court. Such supervision shall be initiated upon an order of
2 probation from the court, and shall not exceed two (2) years, unless
3 a petition alleging a violation of any condition of deferred
4 judgment or seeking revocation of the suspended sentence is filed
5 during the supervision, or as otherwise provided by law. In the
6 case of a person convicted of a sex offense, supervision shall begin
7 immediately upon release from incarceration or if parole is granted
8 and shall not be limited to two (2) years. Provided further, any
9 supervision provided for in this section may be extended for a
10 period not to exceed the expiration of the maximum term or terms of
11 the sentence upon a determination by the court or the Division of
12 Probation and Parole of the Department of Corrections that the best
13 interests of the public and the release will be served by an
14 extended period of supervision.

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

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

1 2. Any offender eligible to participate in the Program pursuant
2 to ~~this act~~ Section 991a et seq. of this title shall be eligible to
3 participate in a county Program; provided, participation in county-
4 funded Programs shall not be limited to offenders who would
5 otherwise be sentenced to confinement with the Department of
6 Corrections.

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

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

21 5. The Department shall annually make a report to the Governor,
22 the President Pro Tempore of the Senate and the Speaker of the House
23 on the number of such Programs, the number of participating
24

1 offenders, the success rates of each Program according to criteria
2 established by the Department and the costs of each Program.

3 H. As used in this section:

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

9 2. "Electronically monitored home detention" means
10 incarceration of the defendant within a specified location or
11 locations with monitoring by means of a device approved by the
12 Department of Corrections that detects if the person leaves the
13 confines of any specified location; and

14 3. "Victims impact panel program" means a meeting with at least
15 one live presenter who will share personal stories with participants
16 about how alcohol, drug abuse and the illegal conduct of others has
17 personally impacted the life of the presenter. A victims impact
18 panel program shall be attended by persons who have committed the
19 offense of driving, operating or being in actual physical control of
20 a motor vehicle while under the influence of alcohol or other
21 intoxicating substance. Persons attending a victims impact panel
22 program shall be required to pay a fee of not less than Fifteen
23 Dollars (\$15.00) nor more than Sixty Dollars (\$60.00) to the
24 provider of the program. A certificate of completion shall be

1 issued to the person upon satisfying the attendance and fee
2 requirements of the victims impact panel program. A victims impact
3 panel program shall not be provided by any certified assessment
4 agency or certified assessor. The provider of the victims impact
5 panel program shall carry general liability insurance and maintain
6 an accurate accounting of all business transactions and funds
7 received in relation to the victims impact panel program.

8 I. A person convicted of a felony offense or receiving any form
9 of probation for an offense in which registration is required
10 pursuant to the Sex Offenders Registration Act, shall submit to
11 deoxyribonucleic acid DNA testing for law enforcement identification
12 purposes in accordance with Section 150.27 of Title 74 of the
13 Oklahoma Statutes and the rules promulgated by the Oklahoma State
14 Bureau of Investigation for the OSBI Combined DNA Index System
15 (CODIS) Database. Subject to the availability of funds, any person
16 convicted of a misdemeanor offense of assault and battery, domestic
17 abuse, stalking, possession of a controlled substance prohibited
18 under Schedule IV of the Uniform Controlled Dangerous Substances
19 Act, outraging public decency, resisting arrest, escape or
20 attempting to escape, eluding a police officer, peeping tom,
21 pointing a firearm, unlawful carry of a firearm, illegal transport
22 of a firearm, discharging of a firearm, threatening an act of
23 violence, breaking and entering a dwelling place, destruction of
24 property, negligent homicide, or causing a personal injury accident

1 while driving under the influence of any intoxicating substance, or
2 any alien unlawfully present under federal immigration law, upon
3 arrest, shall submit to deoxyribonucleic acid DNA testing for law
4 enforcement identification purposes in accordance with Section
5 150.27 of Title 74 of the Oklahoma Statutes and the rules
6 promulgated by the Oklahoma State Bureau of Investigation for the
7 OSBI Combined DNA Index System (CODIS) Database. Any defendant
8 sentenced to probation shall be required to submit to testing within
9 thirty (30) days of sentencing either to the Department of
10 Corrections or to the county sheriff or other peace officer as
11 directed by the court. Defendants who are sentenced to a term of
12 incarceration shall submit to testing in accordance with Section
13 530.1 of Title 57 of the Oklahoma Statutes, for those defendants who
14 enter the custody of the Department of Corrections or to the county
15 sheriff, for those defendants sentenced to incarceration in a county
16 jail. Convicted individuals who have previously submitted to DNA
17 testing under this section and for whom a valid sample is on file in
18 the OSBI Combined DNA Index System (CODIS) Database at the time of
19 sentencing shall not be required to submit to additional testing.
20 Except as required by the Sex Offenders Registration Act, a deferred
21 judgment does not require submission to deoxyribonucleic acid
22 testing.

23 Any person who is incarcerated in the custody of the Department
24 of Corrections after July 1, 1996, and who has not been released

1 before January 1, 2006, shall provide a blood or saliva sample prior
2 to release. Every person subject to DNA testing after January 1,
3 2006, whose sentence does not include a term of confinement with the
4 Department of Corrections shall submit a blood or saliva sample.
5 Every person subject to DNA testing who is sentenced to unsupervised
6 probation or otherwise not supervised by the Department of
7 Corrections shall submit for blood or saliva testing to the sheriff
8 of the sentencing county.

9 J. Samples of blood or saliva for DNA testing required by
10 subsection I of this section shall be taken by employees or
11 contractors of the Department of Corrections, peace officers, or the
12 county sheriff or employees or contractors of the sheriff's office.
13 The individuals shall be properly trained to collect blood or saliva
14 samples. Persons collecting blood or saliva for DNA testing
15 pursuant to this section shall be immune from civil liabilities
16 arising from this activity. All collectors of DNA samples shall
17 ensure the collection of samples are mailed to the Oklahoma State
18 Bureau of Investigation within ten (10) days of the time the subject
19 appears for testing or within ten (10) days of the date the subject
20 comes into physical custody to serve a term of incarceration. All
21 collectors of DNA samples shall use sample kits provided by the OSBI
22 and procedures promulgated by the OSBI. Persons subject to DNA
23 testing who are not received at the Lexington Assessment and
24 Reception Center shall be required to pay a fee of Fifteen Dollars

1 (\$15.00) to the agency collecting the sample for submission to the
2 OSBI Combined DNA Index System (CODIS) Database. Any fees collected
3 pursuant to this subsection shall be deposited in the revolving
4 account or the service fee account of the collection agency or
5 department.

6 K. When sentencing a person who has been convicted of a crime
7 that would subject that person to the provisions of the Sex
8 Offenders Registration Act, neither the court nor the district
9 attorney shall be allowed to waive or exempt such person from the
10 registration requirements of the Sex Offenders Registration Act.

11 SECTION 2. AMENDATORY 57 O.S. 2011, Section 38, as
12 amended by Section 2, Chapter 307, O.S.L. 2015 (57 O.S. Supp. 2015,
13 Section 38), is amended to read as follows:

14 Section 38. A. The Department of Corrections shall reimburse
15 any county which is required to retain an inmate pursuant to
16 subsection D of Section 37 of this title in an amount not to exceed
17 Twenty-seven Dollars (\$27.00) per day for each inmate during such
18 period of retention. The proceeds of this reimbursement shall be
19 used to defray expenses of equipping and maintaining the jail and
20 payment of personnel. If the inmate is confined in a specific
21 location or locations under electronic supervision as ordered by the
22 court pursuant to subparagraph o of paragraph 1 of subsection A of
23 Section 991a of Title 22 of the Oklahoma Statutes, the Department of
24 Corrections shall reimburse the county in an amount not to exceed

1 Twenty Dollars (\$20.00) per day in lieu of the payment provided for
2 in this section for each inmate during such period of retention.
3 The proceeds of this reimbursement shall be used to defray expenses
4 of equipping and maintaining the jail, payment of personnel, and
5 expenses relating to monitoring inmates who are on electronic
6 monitoring while awaiting transfer to a correctional facility of the
7 Department of Corrections.

8 B. The Department of Corrections shall reimburse the county for
9 the emergency medical care for physical injury or illness of the
10 inmate retained under this act if the injury or illness is directly
11 related to the incarceration and the county is required by law to
12 provide such care for inmates in the jail. The Department shall not
13 pay fees for medical care in excess of the rates established for
14 Medicaid providers. The state shall not be liable for medical
15 charges in excess of the Medicaid scheduled rate. The Director may
16 accept any inmate required to have extended medical care upon
17 application of the county.

18 SECTION 3. This act shall become effective November 1, 2016.

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