OKLAHOMA STATUTES
TITLE 22. CRIMINAL PROCEDURE

§22-1. Title of code.

This chapter shall be known as the code of criminal procedure of the State of Oklahoma.

R.L.1910, § 5535.

§22-2. Indictment or information necessary, except when.

Every public offense must be prosecuted by indictment, or information except;

1. Where proceedings are had for the removal of civil officers of this state.

2. Offenses arising in the militia, when in actual service, and in the land and naval forces in time of war, or which the state may keep, with the consent of Congress in time of peace.

3. Offenses tried in justices' and police courts in cases concerning which lawful jurisdiction, without the intervention of a grand jury, is or may be conferred upon said courts.

R.L.1910, § 5536.

§22-3. Code not retroactive.

No part of this code is retroactive unless expressly so declared.

R.L.1910, § 5537.

§22-4. Construction of words.

Unless when otherwise provided, words used in this code in the present tense include the future as well as the present. Words used in the masculine comprehend as well the feminine and neuter. The singular number includes the plural, and the plural the singular. And the word person includes a corporation as well as a natural person.

R.L.1910, § 5538.

§22-4A. "Court", "courts of the state", "courts in the state" and "court clerk" defined.

As used in Title 22 of the Oklahoma Statutes, the term "court" or "courts of the state" or "courts in the state" shall mean the district court of the State of Oklahoma as defined in Section 91.1 of Title 20 of the Oklahoma Statutes, and the term "court clerk" shall mean the clerk of the district court, except where a contrary intention plainly appears.

Added by Laws 1991, c. 238, § 33, eff. July 1, 1991.

§22-5. Writing includes printing.

The term writing includes printing.

R.L.1910, § 5539.

§22-6. Oath includes affirmation.

The term oath includes an affirmation.

R.L.1910, § 5540.

§22-7. Signature.

The term “signature” includes a mark when the person cannot write, the name being written near it, and the mark being witnessed by a person who writes their name as a witness, except to an affidavit or deposition, or a paper executed before a judicial

officer, in which case the attestation of the officer is sufficient. The term "signature" also includes a digital or electronic signature, as defined in Section 15-102 of Title 12A of the Oklahoma Statutes, in any case involving a misdemeanor.
R.L. 1910, § 5541. Amended by Laws 2008, c. 179, § 2, eff. Nov. 1, 2008.

§22-8. Application of statutes.
This chapter applies to criminal actions and to all other proceedings in criminal cases which are herein provided for.
R.L.1910, § 5542.

§22-9. Common law prevails, when.
The procedure, practice and pleadings in the courts of record of this state, in criminal actions or in matters of criminal nature, not specifically provided for in this code, shall be in accordance with the procedure, practice and pleadings of the common law.
R.L.1910, § 5543.

§22-10. Criminal action defined.
The proceeding by which a party charged with a public offense is accused and brought to trial and punishment, is known as a criminal action.
R.L.1910, § 5544.

§22-11. Prosecution is by state against person charged.
A criminal action is prosecuted in the name of the State of Oklahoma as a party, against the person charged with the offense.
R.L.1910, § 5545.

§22-12. Party defendant.
The party prosecuted in a criminal action is designated in this chapter as the defendant.
R.L.1910, § 5546.

§22-13. Right to speedy trial, counsel and witnesses.
In a criminal action the defendant is entitled:
1. To a speedy and public trial.
2. To be allowed counsel, as in civil actions, or to appear and defend in person and with counsel; and,
3. To produce witnesses on his behalf, and to be confronted with the witnesses against him in the presence of the court.
R.L.1910, § 5547.

§22-14. Former jeopardy.

No person can be subjected to a second prosecution for a public offense for which he has once been prosecuted and duly convicted or acquitted, except as hereinafter provided for new trials.
R.L.1910, § 5548.

§22-15. Testimony against one's self - Restraint during trial and prior to conviction.

No person can be compelled in a criminal action to be witness against himself; nor can a person charged with a public offense be subjected before conviction to any more restraint than is necessary for his detention to answer the charge, and in no event shall he be tried before a jury while in chains or shackles.
R.L.1910, § 5549; Laws 1953, p. 97, § 1.

§22-16. Repealed by Laws 2019, c. 227, § 2, eff. Nov. 1, 2019.

§22-17. Custody and distribution of proceeds from sale of rights arising from criminal act.

A. Every person who has been charged, convicted, has pled guilty or has pled nolo contendere to any crime, hereinafter referred to as the defendant, or any other person with the cooperation of the defendant, who contracts to receive, or have any other person or entity receive, any proceeds or profits from any source, as a direct or indirect result of the crime or sentence, or the notoriety which the crime or sentence has conferred upon the defendant, shall forfeit the proceeds or profits as provided in this section; provided, however, proceeds or profits from a contract relating to the depiction or discussion of the defendant's crime shall not be subject to forfeiture unless an integral part of the work is a depiction or discussion of the defendant's crime or an impression of the defendant's thoughts, opinions, or emotions regarding the crime. All parties to a contract described in this section are required to pay to the district court wherein the criminal charges were filed any proceeds or thing of value which pursuant to the contract is to be paid to the defendant or to another person or entity. The district court shall make deposit of proceeds received pursuant to this section and direct the county treasurer to make the deposit of those funds in an escrow account for the benefit of and payable to victims of the crime or the legal representative of any victim of the crime committed by the defendant or to repay a public defender office for legal representation during a criminal proceeding. There is hereby created a lien upon any sum of money or other thing of value payable to anyone pursuant to any contract described in this section, for the purpose of enforcing the forfeiture obligation established herein, which lien may be foreclosed in the same manner as statutory tax liens created by Oklahoma law. Any person who contracts without fully providing for such forfeiture in compliance with the provisions

of this section shall be guilty of a felony and, upon conviction, shall be punished by a fine of not less than Ten Thousand Dollars ($10,000.00) and not to exceed three times the value of the proceeds of the contract, or by imprisonment not exceeding ten (10) years in the custody of the Department of Corrections, or both such fine and imprisonment.

B. Payments from the escrow account shall be used, in the following order of priority, to satisfy any judgment rendered in favor of a victim or a victim's legal representative, to pay restitution, fines, court costs, and other payments, reparations or reimbursements ordered by the court at the time of sentencing including repayments to a public defender office for legal representation of the defendant and to pay every cost and expense of incarceration and treatment authorized by law as a cost of the defendant.

C. A victim or the legal representative of a victim must file a civil action, in a court of competent jurisdiction, to recover money against the defendant or the defendant's legal representative within seven (7) years of the filing of the criminal charges against the defendant. The victims and the legal representative of a victim of the crime shall have a priority interest in any proceeds or profits received pursuant to the provisions of this section. If no victim or legal representative of a victim has filed a civil suit within seven (7) years from the filing of the criminal charges against the defendant, any money in the escrow account shall be paid over in the following order of priority:

1. For restitution;
2. For any fine and court costs;
3. For other payments ordered in the sentence;
4. For the costs and expenses of incarceration; and

any remaining money to the Victims' Compensation Revolving Fund. Upon disposition of charges favorable to the defendant, any money in the escrow account shall be paid over to the defendant.

D. The district court wherein the criminal charges were filed shall, once every six (6) months for seven (7) years from the date any money is deposited with the court, publish a notice in at least one (1) newspaper of general circulation in each county of the state in accordance with the provisions on publication of notices found in Sections 101 et seq. of Title 25 of the Oklahoma Statutes, notifying any eligible victim or legal representative of an eligible victim that monies are available to satisfy judgments pursuant to this section.

Added by Laws 1981, c. 49, § 1. Amended by Laws 1995, c. 201, § 1, emerg. eff. May 19, 1995; Laws 1997, c. 133, § 435, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 319, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 435 from July 1, 1998, to July 1, 1999.

§22-18. Expungement of records - Persons authorized.

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

1. The person has been acquitted;

2. The conviction was reversed with instructions to dismiss by an appellate court of competent jurisdiction, or an appellate court of competent jurisdiction reversed the conviction and the prosecuting agency subsequently dismissed the charge;

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

4. The person has received a full pardon by the Governor for the crime for which the person was sentenced;

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

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

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

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

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

10. The person was convicted of a misdemeanor offense, the person was sentenced to a fine of less than Five Hundred One Dollars ($501.00) without a term of imprisonment or a suspended sentence, the fine has been paid or satisfied by time served in lieu of the fine,

the person has not been convicted of a felony and no felony or misdemeanor charges are pending against the person;

11. The person was convicted of a misdemeanor offense, the person was sentenced to a term of imprisonment, a suspended sentence or a fine in an amount greater than Five Hundred Dollars ($500.00), the person has not been convicted of a felony, no felony or misdemeanor charges are pending against the person and at least five (5) years have passed since the end of the last misdemeanor sentence;

12. The person was convicted of a nonviolent felony offense not listed in Section 571 of Title 57 of the Oklahoma Statutes, the person has not been convicted of any other felony, the person has not been convicted of a separate misdemeanor in the last seven (7) years, no felony or misdemeanor charges are pending against the person and at least five (5) years have passed since the completion of the sentence for the felony conviction;

13. The person was convicted of not more than two felony offenses, none of which is a felony offense listed in Section 13.1 of Title 21 of the Oklahoma Statutes or any offense that would require the person to register pursuant to the provisions of the Sex Offenders Registration Act, no felony or misdemeanor charges are pending against the person, and at least ten (10) years have passed since the completion of the sentence for the felony conviction;

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

15. The person was convicted of a nonviolent felony offense not listed in Section 571 of Title 57 of the Oklahoma Statutes which was subsequently reclassified as a misdemeanor under Oklahoma law, the person is not currently serving a sentence for a crime in this state or another state, at least thirty (30) days have passed since the completion or commutation of the sentence for the crime that was reclassified as a misdemeanor, any restitution ordered by the court to be paid by the person has been satisfied in full, and any treatment program ordered by the court has been successfully completed by the person, including any person who failed a treatment program which resulted in an accelerated or revoked sentence that has since been successfully completed by the person or the person can show successful completion of a treatment program at a later date. Persons seeking an expungement of records under the provisions of this paragraph may utilize the expungement forms provided in Section 2 of this act.

B. For purposes of Section 18 et seq. of this title, "expungement" shall mean the sealing of criminal records, as well as any public civil record, involving actions brought by and against the State of Oklahoma arising from the same arrest, transaction or occurrence.

C. For purposes of seeking an expungement under the provisions of paragraph 10, 11, 12 or 13 of subsection A of this section, offenses arising out of the same transaction or occurrence shall be treated as one conviction and offense.

D. Records expunged pursuant to paragraphs 4, 8, 9, 10, 11, 12, 13, 14 and 15 of subsection A of this section shall be sealed to the public but not to law enforcement agencies for law enforcement purposes. Records expunged pursuant to paragraphs 8, 9, 10, 11, 12 and 13 of subsection A of this section shall be admissible in any subsequent criminal prosecution to prove the existence of a prior conviction or prior deferred judgment without the necessity of a court order requesting the unsealing of the records. Records expunged pursuant to paragraph 4, 6, 12 or 13 of subsection A of this section may also include the sealing of Pardon and Parole Board records related to an application for a pardon. Such records shall be sealed to the public but not to the Pardon and Parole Board. Added by Laws 1987, c. 87, § 1, emerg. eff. May 14, 1987. Amended by Laws 1992, c. 151, § 1, eff. Sept. 1, 1992; Laws 1997, c. 397, § 1, emerg. eff. June 10, 1997; Laws 2000, c. 382, § 9, eff. July 1, 2000; Laws 2002, c. 475, § 1; Laws 2003, c. 3, § 17, emerg. eff. March 19, 2003; Laws 2004, c. 272, § 1, eff. Nov. 1, 2004; Laws 2004, c. 406, § 1, eff. July 1, 2004; Laws 2008, c. 46, § 1, eff. Nov. 1, 2008; Laws 2009, c. 2, § 7, emerg. eff. March 12, 2009; Laws 2012, c. 183, § 2, eff. Nov. 1, 2012; Laws 2014, c. 374, § 1, eff. Nov. 1, 2014; Laws 2015, c. 397, § 2, eff. Nov. 1, 2015; Laws 2016, c. 348, § 1, eff. Nov. 1, 2016; Laws 2018, c. 127, § 1, eff. Nov. 1, 2018; Laws 2019, c. 379, § 1, eff. Nov. 1, 2019; Laws 2019, c. 459, § 1, eff. Nov. 1, 2019.

NOTE: Laws 2002, c. 460, § 14 repealed by Laws 2003, c. 3, § 18, emerg. eff. March 19, 2003. Laws 2008, c. 75, § 1 repealed by Laws 2009, c. 2, § 8, emerg. eff. March 12, 2009.

§22-18a. Petition to Expunge Records and Order to Expunge Records.

The following statutory forms of Petition to Expunge Records Pursuant to Title 22 O.S. Sections 18 and 19 and Order to Expunge Records Pursuant to Title 22 O.S. Sections 18 and 19, as authorized by Section 1 of this act, may be utilized for persons seeking an expungement of records under the provisions of paragraph 15 of subsection A of Section 18 of Title 22 of the Oklahoma Statutes:

IN THE DISTRICT COURT OF _____ COUNTY

STATE OF OKLAHOMA

_____,)
)
Petitioner,)
)
)
)
)

vs.) Case No. _____
)
_____)
)
)
)
THE STATE OF OKLAHOMA,)
)
)
)
Respondent.)

PETITION TO EXPUNGE RECORDS
PURSUANT TO TITLE 22 O.S. SECTIONS 18 AND 19

COMES NOW, the Petitioner and respectfully moves this Court to expunge the criminal history records of the Petitioner pursuant to paragraph 15 of subsection A of Section 18 and Section 19 of Title 22 of the Oklahoma Statutes.

PETITIONER INFORMATION:

_____
(Last name) (First name) (Middle name)

_____
(Address)

_____
(Phone Number)

_____ _____
(Date of Birth) (Social Security Number)

CRIMINAL CASE INFORMATION:

Name and Address of Arresting Agency: Date of Arrest:

_____ _____
_____
_____

Name and Address of Other Agency:
(List any state or local government agency that has a record of your case.)

_____ _____
_____ _____
_____ _____

Case Number to be Expunged: _____
Charge to be Expunged: _____

* Information on your criminal case may be found at *www.oscn.net*.

I, the above-named Petitioner, hereby petition this Court for an expungement of criminal records pursuant to paragraph 15 of subsection A of Section 18 of Title 22 of the Oklahoma Statutes and certify as follows:

1. In this court of the county named above, I was charged and convicted of a nonviolent felony offense not listed in Section 571 of Title 57 of the Oklahoma Statutes;

2. That the nonviolent felony offense I was charged and convicted of has been reclassified as a misdemeanor offense under Oklahoma law;

3. That I am not currently serving a sentence for a crime in this state or another state;

4. At least thirty (30) days have passed since either the completion of my sentence or the commutation of my sentence for the crime that was reclassified as a misdemeanor;

5. That all restitution (if any) ordered by the court to be paid by me in this case has been satisfied in full;

6. That I have successfully completed any and all treatment program(s) ordered by the court, successfully completed an accelerated or revoked sentence or successfully completed a treatment program at a later date; and

7. That the harm to the Petitioner's privacy or danger of unwarranted adverse consequences outweighs the public's interest in retaining said records.

I declare under penalty of perjury that the statements made herein are true and correct to the best of my knowledge, information and belief.

_____ _____

Date Signature of Petitioner

Name (Print): _____

IN THE DISTRICT COURT OF _____ COUNTY

STATE OF OKLAHOMA

_____,)

)

Petitioner,)

)

)

)

vs.) Case No. _____

)

_____)

)

)

)

THE STATE OF OKLAHOMA,)

)

)

)

Respondent.)

ORDER TO EXPUNGE RECORDS

PURSUANT TO TITLE 22 O.S. SECTIONS 18 AND 19

NOW on this _____ day of _____, 20_____, after consideration of the Petition to Expunge Records

Pursuant to Title 22 O.S. Sections 18 and 19, presented by _____, it is so ORDERED that:

[ ] The Petition is hereby GRANTED. The Petitioner qualifies for an expungement of records pursuant to paragraph 15 of subsection A of Section 18 of Title 22 of the Oklahoma Statutes. The Court finds that the harm to the Petitioner's privacy or danger of unwarranted adverse consequences outweighs the public's interest in retaining said records. The Court further finds that the law enforcement agencies listed in the Petition to Expunge Records shall seal all of the court, arrest and criminal history records of the Petitioner pursuant to the provisions of Section 19 of Title 22 of the Oklahoma Statutes. Upon the entry of this order to seal the records, or any part thereof, the subject official actions shall be deemed never to have occurred, and the person in interest and all criminal justice agencies may properly reply, upon any inquiry in the matter, that no such action ever occurred and that no such record exists with respect to such person. Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person in interest who is the subject of such records, the Attorney General, or by the district attorney and only to those persons and for such purposes named in such petition. Employers, educational institutions, state and local government agencies, officials, and employees shall not, in any application or interview or otherwise, require an applicant to disclose any information contained in sealed records. An applicant need not, in answer to any question concerning arrest and criminal records, provide information that has been sealed, including any reference to or information concerning such sealed information, and may state that no such action has ever occurred. Such an application may not be denied solely because of the applicant's refusal to disclose arrest and criminal records information that has been sealed.

[ ] The Petition is hereby DENIED.

IT IS SO ORDERED.

JUDGE OF THE DISTRICT COURT

_____

Added by Laws 2019, c. 459, § 2, eff. Nov. 1, 2019.

§22-19. Sealing and unsealing of records - Procedure.

A. Any person qualified under Section 18 of this title may petition the district court of the district in which the arrest information pertaining to the person is located for the sealing of all or any part of the record, except basic identification information.

B. Upon the filing of a petition or entering of a court order, the court shall set a date for a hearing and shall provide thirty (30) days of notice of the hearing to the prosecuting agency, the arresting agency, the Oklahoma State Bureau of Investigation, and any other person or agency whom the court has reason to believe may have relevant information related to the sealing of such record.

C. Upon a finding that the harm to privacy of the person in interest or dangers of unwarranted adverse consequences outweigh the public interest in retaining the records, the court may order such records, or any part thereof except basic identification information, to be sealed. If the court finds that neither sealing of the records nor maintaining of the records unsealed by the agency would serve the ends of justice, the court may enter an appropriate order limiting access to such records.

Any order entered under this subsection shall specify those agencies to which such order shall apply. Any order entered pursuant to this subsection may be appealed by the petitioner, the prosecuting agency, the arresting agency, or the Oklahoma State Bureau of Investigation to the Oklahoma Supreme Court in accordance with the rules of the Oklahoma Supreme Court. In all such appeals, the Oklahoma State Bureau of Investigation is a necessary party and must be given notice of the appellate proceedings.

D. Upon the entry of an order to seal the records, or any part thereof, the subject official actions shall be deemed never to have occurred, and the person in interest and all criminal justice agencies may properly reply, upon any inquiry in the matter, that no such action ever occurred and that no such record exists with respect to such person.

E. Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person in interest who is the subject of such records, the Attorney General, or by the prosecuting agency and only to those persons and for such purposes named in such petition.

F. Employers, educational institutions, state and local government agencies, officials, and employees shall not, in any application or interview or otherwise, require an applicant to disclose any information contained in sealed records. An applicant need not, in answer to any question concerning arrest and criminal records, provide information that has been sealed, including any reference to or information concerning such sealed information and may state that no such action has ever occurred. Such an application may not be denied solely because of the refusal of the applicant to disclose arrest and criminal records information that has been sealed.

G. All arrest and criminal records information existing prior to the effective date of this section, except basic identification

information, is also subject to sealing in accordance with subsection C of this section.

H. Nothing in this section shall be construed to authorize the physical destruction of any criminal justice records.

I. For the purposes of this section, sealed materials which are recorded in the same document as unsealed material may be recorded in a separate document, and sealed, then obliterated in the original document.

J. For the purposes of this section, district court index reference of sealed material shall be destroyed, removed or obliterated.

K. Any record ordered to be sealed pursuant to this section, if not unsealed within ten (10) years of the expungement order, may be obliterated or destroyed at the end of the ten-year period.

L. Subsequent to records being sealed as provided herein, the prosecuting agency, the arresting agency, the Oklahoma State Bureau of Investigation, or other interested person or agency may petition the court for an order unsealing said records. Upon filing of a petition the court shall set a date for hearing, which hearing may be closed at the discretion of the court, and shall provide thirty (30) days of notice to all interested parties. If, upon hearing, the court determines there has been a change of conditions or that there is a compelling reason to unseal the records, the court may order all or a portion of the records unsealed.

M. Nothing herein shall prohibit the introduction of evidence regarding actions sealed pursuant to the provisions of this section at any hearing or trial for purposes of impeaching the credibility of a witness or as evidence of character testimony pursuant to Section 2608 of Title 12 of the Oklahoma Statutes.

N. If a person qualifies for an expungement under the provisions of paragraph 3 of subsection A of Section 18 of this title and said petition for expungement is granted by the court, the court shall order the reimbursement of all filing fees and court costs incurred by the petitioner as a result of filing the expungement request. Added by Laws 1987, c. 87, § 2, emerg. eff. May 14, 1987. Amended by Laws 1999, c. 234, § 1, eff. Nov. 1, 1999; Laws 2002, c. 475, § 2; Laws 2015, c. 178, § 1, eff. Nov. 1, 2015; Laws 2016, c. 348, § 2, eff. Nov. 1, 2016.

§22-19a. Arrest or charge as result of identity theft - Expungement on motion of court, district attorney or defendant.

Notwithstanding any provision of Section 18 or 19 of Title 22 of the Oklahoma Statutes, when a charge is dismissed because the court finds that the defendant has been arrested or charged as a result of the defendant’s name or other identification having been appropriated or used without the defendant’s consent or authorization by another person, the court dismissing the charge may, upon motion of the

district attorney or the defendant or upon the court's own motion, enter an order for expungement of law enforcement and court records relating to the charge. The order shall contain a statement that the dismissal and expungement are ordered pursuant to this section. An order entered pursuant to this section shall be subject to the provisions of subsections D through M of Section 19 of Title 22 of the Oklahoma Statutes.
Added by Laws 2004, c. 406, § 2, eff. July 1, 2004.

§22-19b. Oklahoma Identity Theft Passport Program.

A. For purposes of protecting persons who are the victims of identity theft, there is hereby created the "Oklahoma Identity Theft Passport Program". The Oklahoma State Bureau of Investigation (OSBI) shall administer the Oklahoma Identity Theft Passport Program, prescribe procedures and policies for issuing the identity theft passport consistent with this act, and provide information to law enforcement agencies explaining the program.

B. A person shall be eligible for an Oklahoma identity theft passport if:

1. The person has obtained:
   a. an order for expungement and sealing of records pursuant to Sections 18 and 19 of Title 22 of the Oklahoma Statutes on grounds that the person has been charged or arrested or is the subject of an arrest warrant for a crime that was committed by another person who has appropriated or used the person's name or other identification without the person's consent or authorization, or
   b. an order for expungement and sealing of records pursuant to Section 2 of this act from a court that dismissed a charge against the person on such grounds; or

2. The person has filed an identity theft report with a federal, state, or local law enforcement agency and has submitted a copy of the identity theft report and an identity theft affidavit with supporting documentation to one or more consumer reporting agencies. For purposes of this act, "identity theft report", "identity theft affidavit", and "consumer reporting agency" shall be defined as provided in The Fair Credit Report Act, 15 United States Code, Section 1681 et seq.

C. To apply for an identity theft passport the person shall submit to the OSBI a certified copy of a court order for expungement and sealing of records or copies of an identity theft report and identity theft affidavit that have been filed and submitted to a consumer reporting agency. The OSBI may prescribe other application requirements as deemed necessary.

D. The OSBI shall issue the identity theft passport unless the OSBI finds reasonable cause not to issue the identity theft passport. The identity theft passport shall state whether the identity theft passport is issued on the basis of an order for expungement or an identity theft report and affidavit having been submitted to the OSBI.

E. Upon issuance of an identity theft passport, the OSBI shall notify the Department of Public Safety. The identity theft passport shall be attached to any records maintained by the OSBI or the Department of Public Safety, including criminal history records for purposes of criminal background checks and law enforcement telecommunications checks. The record of an identity theft passport shall be sealed except to law enforcement authorities.

F. The OSBI shall maintain records of identity theft passport requests and issuances and may provide such information to law enforcement agencies upon request of an agency or officer. Such records in the possession of the OSBI or other law enforcement agencies and officers shall not be public records and shall not be subject to the Oklahoma Open Records Act.

G. The OSBI may prescribe a reasonable fee for processing applications for identify theft passports by administrative rule.

H. The OSBI shall design the identity theft passport, which may include picture identification.

I. An identity theft passport shall be used only for law enforcement purposes, including criminal background checks and similar public safety purposes. Financial institutions and other private entities are not required to honor an identity theft passport as proof of identity or proof of identity theft.

Added by Laws 2004, c. 406, § 3, eff. July 1, 2004.

§22-19c. Arrest or charge as result of human trafficking – Expungement on motion of court or defendant.

The court, upon its own motion or upon petition by the defendant and for good cause shown, may enter an order for expungement of law enforcement and court records relating to a charge or conviction for a prostitution-related offense committed as a result of the defendant having been a victim of human trafficking. The order shall contain a statement that the expungement is ordered pursuant to this section. An order entered pursuant to this section shall be subject to the notice requirements and provisions of subsections B through M of Section 19 of Title 22 of the Oklahoma Statutes. Records expunged pursuant to this section shall be sealed to the public but not to law enforcement agencies for law enforcement purposes.

Added by Laws 2013, c. 57, § 1, eff. Nov. 1, 2013.

§22-20. Incarceration of single custodial parents - Child placement.

When any person is convicted of an offense against the laws of this state and is sentenced to imprisonment to be served in a county jail or a state correctional institution, the judge of the district court shall inquire whether such person is a single custodial parent of any minor child. If such person is a single custodial parent, the judge shall inquire into the arrangements that have been made for the care and custody of the child during the period of incarceration of the custodial parent. If the judge finds that no arrangements have been made or such arrangements pose a safety threat to the child, the court shall make a referral to the Department of Human Services by contacting the statewide child abuse and neglect hotline and shall complete a form, which shall be provided by the Department and approved by the Administrative Director of the Courts, indicating that the defendant has been sentenced to incarceration and that the defendant has sole custody of a minor child or children and has not made appropriate arrangements for the care of the child or children during the period of incarceration.
Added by Laws 1994, c. 215, § 1, eff. Sept. 1, 1994. Amended by Laws 2009, c. 234, § 126, emerg. eff. May 21, 2009; Laws 2010, c. 278, § 19, eff. Nov. 1, 2010.

§22-21. Eyewitness identification procedures.

As used in this section:

1. "Blind administration" means the lack of knowledge of the administrator of an eyewitness identification procedure as to the identity of the suspect;

2. "Blinded administration" means the administrator of an eyewitness identification procedure may know the identity of the suspect but not the position in which the suspect is placed in the photo array when it is viewed by the eyewitness;

3. "Eyewitness" means a person who observed another person at or near the scene of an offense;

4. "Filler" means either a person or a photograph of a person included in an identification procedure who is not suspected of the offense in question;

5. "Folder shuffle method" means a blinded procedure in which:

   a. the suspect photo and filler photos are each placed in separate folders for a total of six photographs and then shuffled,

   b. four blank folders are placed behind the six folders that contain photographs, and

   c. each folder is then presented to an eyewitness such that the administrator cannot see which photos are being presented to the eyewitness until after the procedure is completed;

6. "Live lineup" means an eyewitness identification procedure in which a group of persons, including the suspected perpetrator of an

offense and other persons who are not suspected of the offense, is displayed to an eyewitness for the purpose of determining whether the eyewitness identifies the suspect as the perpetrator;

7. "Photo array" means an identification procedure in which an array of photographs, including a photograph of the suspected perpetrator of an offense and additional photographs of other persons who are not suspected of the offense, is displayed to an eyewitness either in hard copy form or via electronic means for the purpose of determining whether the eyewitness identifies the suspect as the perpetrator; and

8. "Show-up" means an identification procedure in which an eyewitness is presented with a single suspect in person for the purpose of determining whether the eyewitness identifies the individual as the perpetrator.

B. All law enforcement agencies in this state that conduct eyewitness identification procedures shall adopt a detailed, written policy that shall include, but not be limited to, the following requirements:

1. All photo arrays and live lineups shall be conducted using a blind administrator or a technique of blinded administration, such as the folder shuffle method;

2. The eyewitness shall be informed before the identification procedure that the person who committed the offense may or may not be present in the procedure;

3. Fillers shall be selected who match the description of the perpetrator provided by the eyewitness and do not make the suspect noticeably stand out;

4. After the eyewitness makes an identification, the eyewitness shall be asked to state in his or her own words the level of certainty in the selection, and the statement shall be documented;

5. A protocol guiding the use of show-ups procedures, including that show-ups should only be used when a suspect is detained within a reasonably short time frame following the offense; and

6. A protocol for documenting eyewitness identification procedures.

Added by Laws 2019, c. 223, § 1, eff. Nov. 1, 2019.

§22-22. Policy requiring electronic recording of custodial interrogation of homicide or felony sex offense suspects.

A. As used in this section:

1. "Custodial interrogation" means questioning of a person to whom warnings given pursuant to Miranda v. Arizona, 384 U.S. 436 (1966), are required to be given;

2. "Electronic recording" means audio or audiovisual recording; provided, an audiovisual recording shall be used when feasible; and

3. "Place of detention" means a fixed location under the control of a law enforcement agency of this state where individuals are questioned about alleged crimes.

B. All law enforcement agencies of this state, in collaboration with the county or district attorney in the appropriate jurisdiction, shall adopt a detailed written policy requiring electronic recording of a custodial interrogation of an individual suspected of homicide or a felony sex offense that is conducted at a place of detention. A policy adopted pursuant to this section shall be made available to all officers of the law enforcement agency and shall be available for public inspection during normal business hours. A policy adopted pursuant to this section shall include the following:

1. A requirement that an electronic recording shall be made of an entire custodial interrogation of an individual suspected of homicide or a felony sex offense that is conducted at a place of detention;

2. A requirement that if the defendant elects to make or sign a written statement during the course of a custodial interrogation concerning a homicide or a felony sex offense, the making and signing of the statement shall be electronically recorded;

3. Requirements pertaining to the retention and storage of the electronic recording; and

4. A statement of exceptions to the requirement for electronically recording custodial interrogations under this section, including, but not limited to:

a. an equipment malfunction preventing electronic recording of the interrogation in its entirety, and replacement equipment is not immediately available,

b. the officer, in good faith, fails to record the interrogation because the officer inadvertently fails to operate the recording equipment properly, or without the officer's knowledge the recording equipment malfunctions or stops recording,

c. the suspect affirmatively asserts the desire to speak with officers without being recorded,

d. multiple interrogations are taking place simultaneously, exceeding the available electronic recording capacity,

e. the statement is made spontaneously and not in response to an interrogation question,

f. the statement is made during questioning that is routinely asked during the processing of an arrest of a suspect,

g. the statement is made at a time when the officer is unaware of the suspect's involvement in an offense covered by the policy,

h. exigent circumstances make recording impractical,

i. at the time of the interrogation, the officer, in good faith, is unaware of the type of offense involved, and

j. the recording is damaged or destroyed, without bad faith on the part of any person or entity in control of the recording.

Added by Laws 2019, c. 333, § 1, eff. Nov. 1, 2019.

§22-31. Who may resist.

Lawful resistance to the commission of a public offense may be made:

1. By the party about to be injured.

2. By other parties.

R.L.1910, § 5556.

§22-32. Resistance by party to be injured.

Resistance sufficient to prevent the offense may be made by the party about to be injured:

1. To prevent an offense against his person or his family, or some member thereof.

2. To prevent an illegal attempt, by force, to take or injure property in his lawful possession.

R.L.1910, § 5557.

§22-33. Resistance by other person.

Any other person, in aid or defense of the person about to be injured, may make resistance sufficient to prevent the offense.

R.L.1910, § 5558.

§22-34. Intervention by officers.

Public offenses may be prevented by the intervention of the officers of justice:

1. By requiring security to keep the peace.

2. By forming a police in cities and towns, and by requiring their attendance in exposed places.

3. By suppressing riots.

R.L.1910, § 5559.

§22-34.1. Peace officers using excessive force - Definition - Adoption of policies and guidelines.

A. Any peace officer, as defined in Section 648 of Title 21 of the Oklahoma Statutes, who uses excessive force in pursuance of such officer's law enforcement duties shall be subject to the criminal laws of this state to the same degree as any other citizen.

B. As used in this act, "excessive force" means physical force which exceeds the degree of physical force permitted by law or the policies and guidelines of the law enforcement entity. The use of excessive force shall be presumed when a peace officer continues to

apply physical force in excess of the force permitted by law or said policies and guidelines to a person who has been rendered incapable of resisting arrest.

C. Each law enforcement entity which employs any peace officer shall adopt policies or guidelines concerning the use of force by peace officers which shall be complied with by peace officers in carrying out the duties of such officers within the jurisdiction of the law enforcement entity.

Added by Laws 1992, c. 146, § 1, eff. July 1, 1992.

§22-34.2. Reporting incidents of excessive force - Contents of report - Failure to report or making materially false statements.

A. Any peace officer, except a newly employed officer during such officer's probationary period, who, in pursuance of such officer's law enforcement duties, witnesses another peace officer, in pursuance of such other peace officer's law enforcement duties in carrying out an arrest of any person, placing any person under detention, taking any person into custody, booking any person, or in the process of crowd control or riot control, use physical force which exceeds the degree of physical force permitted by law or by the policies and guidelines of the law enforcement entity, shall report such use of excessive force to such officer's immediate supervisor.

B. At a minimum, the report required by this section shall include:

1. The date, time, and place of the occurrence;

2. The identity, if known, and description of the participants;

3. A description of the events and the force used.

C. A copy of an arrest report or other similar report required as a part of a peace officer's duties can be substituted for the report required by this section, as long as it includes the information specified in subsection B of this section. The report shall be made in writing within ten (10) days of the occurrence of the use of such force.

D. Any peace officer who fails to report such use of excessive force in the manner prescribed in this section, or who knowingly makes a materially false statement which the officer does not believe to be true in any report made pursuant to this section, upon conviction, shall be guilty of a misdemeanor.

Added by Laws 1992, c. 146, § 2, eff. July 1, 1992.

§22-34.3. Racial profiling prohibited.

A. For the purposes of this section, "racial profiling" means the detention, interdiction or other disparate treatment of an individual solely on the basis of the racial or ethnic status of such individual.

B. No officer of any municipal, county or state law enforcement agency shall engage in racial profiling.

C. The race or ethnicity of an individual shall not be the sole factor in determining the existence of probable cause to take into custody or to arrest an individual or in constituting a reasonable and articulable suspicion that an offense has been or is being committed so as to justify the detention of an individual or the investigatory stop of a motor vehicle.

D. A violation of this section shall be a misdemeanor.

E. Every municipal, county, and state law enforcement agency shall adopt a detailed written policy that clearly defines the elements constituting racial profiling. Each agency's policy shall prohibit racial profiling based solely on an individual's race or ethnicity. The policy shall be available for public inspection during normal business hours.

F. If the investigation of a complaint of racial profiling reveals the officer was in direct violation of the law enforcement agency's written policy regarding racial profiling, the employing law enforcement agency shall take appropriate action consistent with applicable laws, rules, ordinances or policy.
Added by Laws 2000, c. 325, § 1, eff. July 1, 2000.

§22-34.4. Stop or arrest resulting from racial profiling.

Whenever a person who is stopped or arrested believes the stop or arrest was in violation of Section 34.3 of this title, that person may file a complaint with the Attorney General's Office of Civil Rights Enforcement and may also file a complaint with the district attorney for the county in which the stop or arrest occurred. A copy of the complaint shall be forwarded to the arresting officer's employer by the Attorney General's Office of Civil Rights Enforcement. The employer shall investigate the complaint for purposes of disciplinary action and/or criminal prosecution.
Added by Laws 2000, c. 325, § 2, eff. July 1, 2000. Amended by Laws 2013, c. 214, § 1, emerg. eff. May 7, 2013.

§22-34.5. Attorney General's Office of Civil Rights Enforcement to establish procedures for filing racial profiling complaint - Annual report of complaints.

A. The Attorney General's Office of Civil Rights Enforcement shall promulgate rules establishing procedures for filing a racial profiling complaint with the Attorney General's Office of Civil Rights Enforcement and the district attorney and the process for delivering a copy of the complaint by the Attorney General to the employing agency. The Attorney General's Office of Civil Rights Enforcement, in consultation with the Governor's Cabinet Secretary for Safety and Security, shall promulgate forms for complaints of racial profiling.

B. The Attorney General shall compile an annual report of all complaints received for racial profiling and submit the report on or

before January 31 of each year to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives; provided, the names of the complainants shall be redacted and shall not be forwarded with the report.
Added by Laws 2000, c. 325, § 3, eff. July 1, 2000. Amended by Laws 2013, c. 214, § 2, emerg. eff. May 7, 2013; Laws 2017, c. 306, § 1, eff. Nov. 1, 2017.

§22-35. Persons assisting officers.

When the officers of justice are authorized to act in the prevention of public offenses, other persons, who, by their command, act in their aid, are justified in so doing.
R.L.1910, § 5560.

§22-36. Civil and criminal immunity for private citizens aiding police officers - Federal law enforcement officers.

Private citizens aiding a peace officer, or other officers of the law in the performance of their duties as peace officers or officers of the law, shall have the same civil and criminal immunity as a peace officer, as a result of any act or commission for aiding or attempting to aid a peace officer or other officer of the law, when such officer is in imminent danger of loss of life or grave bodily injury or when such officer requests such assistance and when such action was taken under emergency conditions and in good faith.

Every federal law enforcement officer, as defined in Section 99 of Title 21 of the Oklahoma Statutes, while engaged in the performance of official duties as a federal law enforcement officer or when serving as a peace officer for the State of Oklahoma shall have the same immunity from civil and criminal actions as any other peace officer performing official duties within this state. The State of Oklahoma or any of its political subdivisions shall not assume the liability for or provide the legal representation for any federal law enforcement officer serving as peace officers of the State of Oklahoma.
Added by Laws 1968, c. 362, § 1, emerg. eff. May 9, 1968. Amended by Laws 1995, c. 240, § 4, emerg. eff. May 24, 1995; Laws 1997, c. 43, § 4, emerg. eff. April 7, 1997.

§22-36.1. Police dog handlers - Civil liability.

Any dog handler as defined by Section 648 of Title 21 of the Oklahoma Statutes who uses a police dog in the line of duty in accordance with the policies or standards established by the law enforcement agency for which he is employed shall not be civilly liable for any damages arising from the use of said dog, except as provided for in the Governmental Tort Claims Act.
Added by Laws 1986, c. 54, § 4, eff. July 1, 1986.

§22-36.2. National Park Service rangers - Arrest authority and immunity from suit.

A National Park Service ranger who, in the official capacity as park ranger, is authorized by law to make arrests shall, when making an arrest in this state for a nonfederal offense, have the same legal status and immunity from suit as a state or local law enforcement officer if the arrest is made under the following circumstances:

1. The Park Service ranger reasonably believes that the person arrested has committed a felony in the presence of the ranger or is committing a felony in the presence of the ranger;

2. The Park Service ranger reasonably believes the person arrested has committed a misdemeanor that amounts to a breach of the peace in the presence of the ranger or is committing a misdemeanor that amounts to a breach of the peace in the presence of the ranger; or

3. The Park Service ranger is rendering assistance to a law enforcement officer of this state in an emergency or at the request of such officer or pursuant to a memorandum of understanding between the state or a political subdivision of the state and the United States Department of the Interior National Park Service.

Added by Laws 1996, c. 41, § 1, emerg. eff. April 8, 1996.

§22-37. Distinctive uniforms for police officers - Exceptions.

The governing bodies of the state, county, city or town, as the case may be, may furnish distinctive uniforms for all sheriffs, deputy sheriffs, policemen, town marshals, peace officers and other officers, whose duty is to preserve and enforce public peace. When uniforms are furnished the sheriffs, deputy sheriffs, policemen, town marshals, peace officers, as the case might be, they are required to wear the same while on duty. This act shall not apply to detectives and other officers required to wear street apparel.

Laws 1969, c. 188, § 1, emerg. eff. April 17, 1969.

§22-37.1. Off-duty law enforcement officers - Powers and duties-Liability.

An "off-duty" law enforcement officer in official uniform in attendance at a public function, event or assemblage of people shall have the same powers and obligations as when he is "on-duty".

Nothing herein shall impose liability upon the governmental entity, by whom the law enforcement officer is employed, for actions of the said officer in the course of his employment by a nongovernmental entity.

Laws 1980, c. 279, § 1, emerg. eff. June 13, 1980.

§22-38. Representation of law enforcement officers by district attorney in civil actions resulting from riot activity.

A law enforcement officer who has no criminal action taken, pending or contemplated against him for the identical acts as hereinafter set forth shall be entitled to representation by the district attorney of his district or where the action is filed in a civil action brought against him for actions alleged to have been wrongfully committed by him while performing his official duty of endeavoring to quell a riot or to control civil disorder, whether or not a state of emergency was declared by the Governor at the time. Representation of a law enforcement officer against whom a civil action is instituted on account of alleged wrongful acts by the officer while performing riot quelling or civil disorder controlling functions shall not authorize a district attorney to receive other compensation for legal services than the salary provided by law for his office.
Laws 1970, c. 291, § 1, emerg. eff. April 28, 1970.

§22-39. Benefits for citizens who aid.

Any citizen who shall be aiding in the maintaining of law and order shall likewise be entitled to the benefits of this act.
Laws 1970, c. 291, § 2, emerg. eff. April 28, 1970.

§22-40. Definitions.

As used in Sections 40 through 40.3 of this title:

1. "Assault and battery with a deadly weapon" means assault and battery with a deadly weapon or other means likely to produce death or great bodily harm as provided in Section 652 of Title 21 of the Oklahoma Statutes;

2. "Forcible sodomy" means the act of forcing another person to engage in the detestable and abominable crime against nature pursuant to Sections 886 and 887 of Title 21 of the Oklahoma Statutes that is punishable under Section 888 of Title 21 of the Oklahoma Statutes;

3. "Kidnapping" means kidnapping or kidnapping for purposes of extortion as provided in Sections 741 and 745 of Title 21 of the Oklahoma Statutes;

4. "Member of the immediate family" means the spouse, a child by birth or adoption, a stepchild, a parent by birth or adoption, a stepparent, a grandparent, a grandchild, a sibling or a stepsibling of a victim of first-degree murder;

5. "Rape" means an act of sexual intercourse accomplished with a person pursuant to Sections 1111, 1111.1 and 1114 of Title 21 of the Oklahoma Statutes; and

6. "Sex offense" means the following crimes:

   a. sexual assault as provided in Section 681 of Title 21 of the Oklahoma Statutes,

   b. human trafficking for commercial sex as provided in Section 748 of Title 21 of the Oklahoma Statutes,

c. sexual abuse or sexual exploitation by a caretaker as provided in Section 843.1 of Title 21 of the Oklahoma Statutes,
d. child sexual abuse or child sexual exploitation as provided in Section 843.5 of Title 21 of the Oklahoma Statutes,
e. permitting sexual abuse of a child as provided in Section 852.1 of Title 21 of the Oklahoma Statutes,
f. incest as provided in Section 885 of Title 21 of the Oklahoma Statutes,
g. forcible sodomy as provided in Section 888 of Title 21 of the Oklahoma Statutes,
h. child stealing for purposes of sexual abuse or sexual exploitation as provided in Section 891 of Title 21 of the Oklahoma Statutes,
i. indecent exposure or solicitation of minors as provided in Section 1021 of Title 21 of the Oklahoma Statutes,
j. procuring, producing, distributing or possessing child pornography as provided in Sections 1021.2 and 1024.2 of Title 21 of the Oklahoma Statutes,
k. parental consent to child pornography as provided in Section 1021.3 of Title 21 of the Oklahoma Statutes,
l. aggravated possession of child pornography as provided in Section 1040.12a of Title 21 of the Oklahoma Statutes,
m. distributing obscene material or child pornography as provided in Section 1040.13 of Title 21 of the Oklahoma Statutes,
n. offering or soliciting sexual conduct with a child as provided in Section 1040.13a of Title 21 of the Oklahoma Statutes,
o. procuring a child for prostitution or other lewd acts as provided in Section 1087 of Title 21 of the Oklahoma Statutes,
p. inducing a child to engage in prostitution as provided in Section 1088 of Title 21 of the Oklahoma Statutes, and
q. lewd or indecent proposals or acts to a child or sexual battery as provided in Section 1123 of Title 21 of the Oklahoma Statutes.

Added by Laws 1982, c. 220, § 1. Amended by Laws 1991, c. 112, § 1, eff. Sept. 1, 1991; Laws 2000, c. 370, § 1, eff. July 1, 2000; Laws 2002, c. 466, § 1, emerg. eff. June 5, 2002; Laws 2015, c. 206, § 2, eff. Nov. 1, 2015; Laws 2016, c. 183, § 2, eff. Nov. 1, 2016.

§22-40.1. Repealed by Laws 2010, c. 135, § 16, eff. Nov. 1, 2010.

§22-40.2. Victim protection order - Victims not to be discouraged from pressing charges.

A. A victim protection order for any victim of rape, forcible sodomy, a sex offense, kidnapping or assault and battery with a deadly weapon shall be substantially similar to a protective order in domestic abuse cases pursuant to the Protection from Domestic Abuse Act.

B. A member of the immediate family of a victim of first-degree murder may seek a victim protection order against the following persons:

1. The person who was charged and subsequently convicted as the principal in the crime of murder in the first degree; or

2. The person who was charged and subsequently convicted of being an accessory to the crime of murder in the first degree.

A victim protection order for a member of the immediate family of a victim of first-degree murder shall be substantially similar to a protective order in domestic abuse cases pursuant to the Protection from Domestic Abuse Act.

C. No peace officer shall discourage a victim of rape, forcible sodomy, a sex offense, kidnapping or assault and battery with a deadly weapon from pressing charges against any assailant of the victim.

Added by Laws 1982, c. 220, § 3. Amended by Laws 1993, c. 325, § 13, eff. Sept. 1, 1993; Laws 2002, c. 466, § 3, emerg. eff. June 5, 2002; Laws 2015, c. 206, § 3, eff. Nov. 1, 2015; Laws 2016, c. 183, § 3, eff. Nov. 1, 2016.

§22-40.3. Emergency temporary order of protection.

A. When the court is not open for business, the victim of domestic violence, stalking, harassment, rape, forcible sodomy, a sex offense, kidnapping or assault and battery with a deadly weapon or member of the immediate family of a victim of first-degree murder may request a petition for an emergency temporary order of protection. The peace officer making the preliminary investigation shall:

1. Provide the victim or member of the immediate family of a victim of first-degree murder with a petition for an emergency temporary order of protection and, if necessary, assist the victim or member of the immediate family of a victim of first-degree murder in completing the petition form. The petition shall be in substantially the same form as provided by Section 60.2 of this title for a petition for protective order in domestic abuse cases;

2. Immediately notify, by telephone or otherwise, a judge of the district court of the request for an emergency temporary order of protection and describe the circumstances. The judge shall inform the peace officer of the decision to approve or disapprove the emergency temporary order;

3. Inform the victim or member of the immediate family of a victim of first-degree murder whether the judge has approved or disapproved the emergency temporary order. If an emergency temporary order has been approved, the officer shall provide the victim, or a responsible adult if the victim is a minor child or an incompetent person or member of the immediate family of a victim of first-degree murder, with a copy of the petition and a written statement signed by the officer attesting that the judge has approved the emergency temporary order of protection; and

4. Notify the person subject to the emergency temporary protection order of the issuance and conditions of the order, if known. Notification pursuant to this paragraph may be made personally by the officer upon arrest or, upon identification of the assailant, notice shall be given by any law enforcement officer. A copy of the petition and the statement of the officer attesting to the order of the judge shall be made available to the person.

B. The forms utilized by law enforcement agencies in carrying out the provisions of this section may be substantially similar to those used under Section 60.2 of this title.

Added by Laws 1982, c. 220, § 4. Amended by Laws 1986, c. 197, § 5, eff. Nov. 1, 1986; Laws 1993, c. 325, § 14, eff. Sept. 1, 1993; Laws 1997, c. 368, § 1, eff. Nov. 1, 1997; Laws 2000, c. 370, § 3, eff. July 1, 2000; Laws 2002, c. 466, § 4, emerg. eff. June 5, 2002; Laws 2010, c. 116, § 1, eff. Nov. 1, 2010; Laws 2015, c. 206, § 4, eff. Nov. 1, 2015; Laws 2016, c. 183, § 4, eff. Nov. 1, 2016.

§22-40.3A. Reporting of rape, sodomy, or sexual assault incidents – Referral of victim to services programs – Production of records to law enforcement officers.

A. Any physician, surgeon, resident, intern, physician assistant, registered nurse, or any other health care professional examining, attending, or treating the victim of what appears to be or is reported by the victim to be rape, rape by instrumentation or forcible sodomy, as defined in Section 1111, 1111.1 or 888 of Title 21 of the Oklahoma Statutes or any form of sexual assault, shall not be required to report any incident of what appears to be or is reported to be such crimes if:

1. Committed upon a person who is over the age of eighteen (18) years; and

2. The person is not an incapacitated adult.

B. Any physician, surgeon, resident, intern, physician assistant, registered nurse, or any other health care professional examining, attending, or treating a victim shall be required to report any incident of what appears to be or is reported to be rape, rape by instrumentation, forcible sodomy or any form of sexual assault, if requested to do so either orally or in writing by the victim and shall be required to inform the victim of the victim's

right to have a report made. A requested report of any incident shall be promptly made orally or by telephone to the nearest law enforcement agency in the county wherein the sexual assault occurred or, if the location where the sexual assault occurred is unknown, the report shall be made to the law enforcement agency nearest to the location where the injury is treated.

C. In all cases of what appears to be or is reported to be rape, rape by instrumentation, forcible sodomy or any form of sexual assault, the physician, surgeon, resident, intern, physician assistant, registered nurse, or any other health care professional examining, attending, or treating the victim of what appears to be such crimes, shall clearly and legibly document the incident and injuries observed and reported, as well as any treatment provided or prescribed.

D. In all cases of what appears to be or is reported to be rape, rape by instrumentation, forcible sodomy or any form of sexual assault, the physician, surgeon, resident, intern, physician assistant, registered nurse, or any other health care professional examining, attending, or treating the victim of what appears to be rape, rape by instrumentation, forcible sodomy or any form of sexual assault, shall refer the victim to sexual assault and victim services programs, including providing the victim with twenty-four-hour statewide telephone communication service established by Section 18p-5 of Title 74 of the Oklahoma Statutes.

E. Every physician, surgeon, resident, intern, physician assistant, registered nurse, or any other health care professional making a report of rape, rape by instrumentation, forcible sodomy or any form of sexual assault pursuant to this section or examining such victims to determine the likelihood of such crimes, and every hospital or related institution in which the victims were examined or treated shall, upon the request of a law enforcement officer conducting a criminal investigation into the case, provide to the officer copies of the results of the examination or copies of the examination on which the report was based, and any other clinical notes, X-rays, photographs, and other previous or current records relevant to the case.

Added by Laws 2009, c. 71, § 2, eff. Nov. 1, 2009. Amended by Laws 2009, c. 233, § 109, emerg. eff. May 21, 2009.

§22-40.5. Short Title.

Sections 2 through 4 of this act shall be known and may be cited as the "Domestic Abuse Reporting Act".

Added by Laws 1986, c. 197, § 2, eff. Nov. 1, 1986.

§22-40.6. Record of reported incidents of domestic abuse - Reports.

A. It shall be the duty of every law enforcement agency to keep a record of each reported incident of domestic abuse as provided in

subsection B of this section and to submit a monthly report of such incidents as provided in subsection C of this section to the Director of the Oklahoma State Bureau of Investigation.

B. The record of each reported incident of domestic abuse shall:

1. Show the type of crime involved in the domestic abuse;

2. Show the day of the week the incident occurred;

3. Show the time of day the incident occurred; and

4. Contain other information requested by the Oklahoma State Bureau of Investigation.

C. A monthly report of the recorded incidents of domestic abuse shall be submitted to the Director of the Oklahoma State Bureau of Investigation on forms provided by the Oklahoma State Bureau of Investigation for such purpose and in accordance with the guidelines established pursuant to Section 150.12B of Title 74 of the Oklahoma Statutes.

Added by Laws 1986, c. 197, § 3, eff. Nov. 1, 1986. Amended by Laws 2000, c. 370, § 4, eff. July 1, 2000.

§22-40.7. Expert testimony - Admissibility.

In an action in a court of this state, if a party offers evidence of domestic abuse, testimony of an expert witness including, but not limited to, the effects of such domestic abuse on the beliefs, behavior and perception of the person being abused shall be admissible as evidence.

Added by Laws 1992, c. 145, § 1, eff. Sept. 1, 1992. Amended by Laws 2019, c. 292, § 1, eff. Nov. 1, 2019.

§22-41. Information of threat.

An information, verified by the oath of the complainant, may be laid before any magistrate, that a person has threatened to commit an offense against the person or property of another.

R.L.1910, § 5561.

§22-42. Magistrate must issue warrant.

If it appear from the information that there is just reason to fear the commission of the offenses threatened, by the person complained of, the magistrate must issue a warrant, directed generally to the sheriff of the county, or any constable, or marshal, or policeman of the city or town, reciting the substance of the information, and commanding the officer forthwith to arrest the person complained of, and bring him before the magistrate of the county.

R.L. 1910, Sec. 5562.

§22-43. Proceedings when charge is controverted.

When the person complained of is brought before the magistrate, if the charge be controverted, the magistrate must take testimony in

relation thereto. The evidence must, on demand of the defendant, be reduced to writing, and subscribed by the witnesses.
R.L.1910, § 5563. d

§22-44. Discharge, when.
Unless it appear that there is just reason to fear the commission of the offense alleged to have been threatened, the person complained of must be discharged.
R.L.1910, § 5564.

§22-45. Bond required, when.
If, however, there be just reason to fear the commission of the offense the person complained of may be required to enter into an undertaking in such sum, not exceeding One Thousand Dollars ($1,000.00), as the magistrate may direct, with one or more sufficient sureties, to abide the order of the next district court of the county, and in the meantime to keep the peace toward the people of this state, and particularly toward the complainant.
R.L.1910, § 5565.

§22-46. When bond is or is not given.
If the undertaking required by the last section be given the party complained of must be discharged. If he do not give it the magistrate must commit him to prison, specifying in the warrant the requirement to give security, the amount thereof, and the omission to give the same.
R.L.1910, § 5566.

§22-47. Discharge on giving bond.
If the person complained of be committed for not giving security he may be discharged by any justice of the peace of the county, or police or special justice of the city, upon giving the same.
R.L.1910, § 5567.

§22-48. Undertaking sent to district court.
The undertaking must be transmitted by the magistrate to the next district court of the county.
R.L.1910, § 5568.

§22-49. Assault or threat in presence of magistrate.
A person who, in the presence of a court or magistrate, assaults or threatens to assault another, or commit an offense against his person or property, or who contends with another with angry words, may be ordered by the court or magistrate to give security, as provided in Section 5565, or if he refuses to do so, he may be committed as provided in Section 5566.
R.L.1910, § 5569.

§22-50. Person must appear in district court.

A person who has entered into an undertaking to keep the peace must appear on the first day of the next term of the district court of the county. If he do not, the court may forfeit his undertaking, and order it to be prosecuted unless his default be excused.
R.L.1910, § 5570.

§22-51. Discharge when complainant fails to appear.

If the complainant do not appear, the person complained of may be discharged, unless good cause to the contrary be shown.
R.L.1910, § 5571.

§22-52. Proceedings when parties appear.

If both parties appear, the court may hear their proofs and allegations, and may either discharge the undertaking or require a new one for a time not exceeding one (1) year.
R.L.1910, § 5572.

§22-53. Breach of bond, what constitutes.

An undertaking to keep the peace is broken on the failure of a person complained of to appear at the district court as provided in Section 5570, or upon his being convicted of a breach of the peace.
R.L.1910, § 5573.

§22-54. Prosecution on breach.

Upon the county attorney producing evidence of such conviction to the district court to which the undertaking is returned, that court must order the undertaking to be prosecuted, and the county attorney must thereupon commence an action upon it in the name of this State.
R.L.1910, § 5574.

§22-55. Allegation and proof.

In the action the offense stated in the record of conviction must be alleged as the breach of the undertaking, and such record is conclusive evidence thereof.
R.L.1910, § 5575. d

§22-56. Limitation.

Security to keep the peace or to be of good behavior cannot be required, except as prescribed in this article.
R.L.1910, § 5576.

§22-57. Costs.

In all cases of security to keep the peace under this chapter, the court in addition to the orders mentioned in said chapter shall tax the costs against the complainant or defendant, or both, as

justice may require, and enter judgment therefor, which may be enforced as judgments for costs in criminal cases, and execution may issue therefor.
R.L.1910, § 5577.

§22-58. Mandatory reporting of domestic abuse - Exceptions.

A. Criminally injurious conduct, as defined by the Oklahoma Crime Victims Compensation Act, which appears to be or is reported by the victim to be domestic abuse, as defined in Section 60.1 of this title, or domestic abuse by strangulation, domestic abuse resulting in great bodily harm, or domestic abuse in the presence of a child, as defined in Section 644 of Title 21 of the Oklahoma Statutes, shall be reported according to the standards for reporting as set forth in subsection B of this section.

B. Any physician, surgeon, resident, intern, physician assistant, registered nurse, or any other health care professional examining, attending, or treating the victim of what appears to be domestic abuse or is reported by the victim to be domestic abuse, as defined in Section 60.1 of this title, or domestic abuse by strangulation, domestic abuse resulting in great bodily harm, or domestic abuse in the presence of a child, as defined in Section 644 of Title 21 of the Oklahoma Statutes, shall not be required to report any incident of what appears to be or is reported to be domestic abuse, domestic abuse by strangulation, domestic abuse resulting in great bodily harm, or domestic abuse in the presence of a child if:

1. Committed upon the person of an adult who is over the age of eighteen (18) years; and

2. The person is not an incapacitated adult.

C. Any physician, surgeon, resident, intern, physician assistant, registered nurse, or any other health care professional examining, attending, or treating a victim shall be required to report any incident of what appears to be or is reported to be domestic abuse, domestic abuse by strangulation, domestic abuse resulting in great bodily harm, or domestic abuse in the presence of a child, if requested to do so either orally or in writing by the victim. A report of any incident shall be promptly made orally or by telephone to the nearest law enforcement agency in the county wherein the domestic abuse occurred or, if the location where the conduct occurred is unknown, the report shall be made to the law enforcement agency nearest to the location where the injury is treated.

D. In all cases of what appears to be or is reported to be domestic abuse, the physician, surgeon, resident, intern, physician assistant, registered nurse, or any other health care professional examining, attending, or treating the victim of what appears to be domestic abuse shall clearly and legibly document the incident and injuries observed and reported, as well as any treatment provided or prescribed.

E. In all cases of what appears to be or is reported to be domestic abuse, the physician, surgeon, resident, intern, physician assistant, registered nurse, or any other health care professional examining, attending or treating the victim of what appears to be domestic abuse shall refer the victim to domestic violence and victim services programs, including providing the victim with the twenty-four-hour statewide telephone communication service established by Section 18p-5 of Title 74 of the Oklahoma Statutes.

F. Every physician, surgeon, resident, intern, physician assistant, registered nurse, or any other health care professional making a report of domestic abuse pursuant to this section or examining a victim of domestic abuse to determine the likelihood of domestic abuse, and every hospital or related institution in which the victim of domestic abuse was examined or treated shall, upon the request of a law enforcement officer conducting a criminal investigation into the case, provide copies of the results of the examination or copies of the examination on which the report was based, and any other clinical notes, x-rays, photographs, and other previous or current records relevant to the case to the investigating law enforcement officer.

Added by Laws 2005, c. 53, § 3, eff. Nov. 1, 2005. Amended by Laws 2007, c. 156, § 4, eff. Nov. 1, 2007; Laws 2009, c. 234, § 127, emerg. eff. May 21, 2009.

§22-59. Immunity from liability – Presumption of good faith.

A. Any physician, surgeon, resident, intern, physician's assistant, registered nurse, or any other health care professional examining, attending, or treating the victim of what appears to be domestic abuse or is reported by the victim to be domestic abuse, participating in good faith and exercising due care in the making of a report pursuant to the provisions of the Domestic Abuse Reporting Act shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any participant shall have the same immunity with respect to participation in any judicial proceeding resulting from the report.

B. No physician, surgeon, resident, intern, physician's assistant, registered nurse, or any other health care professional examining, attending, or treating any victim who is over the age of eighteen (18) years and is not an incapacitated adult of what appears to be domestic abuse or is reported by the victim to be domestic abuse, shall not be required to make a report of the criminally injurious conduct unless requested by the victim to do so and shall have immunity from liability, civil or criminal, that might otherwise be incurred or imposed for not making the report. Any participant shall have the same immunity with respect to participation in any judicial proceeding resulting from the report.

C. For purposes of any proceeding, civil or criminal, the good faith of any physician, surgeon, intern, physician's assistant, registered nurse, or any other health care professional in making a report pursuant to the provisions of Section 3 of this act shall be presumed.
Added by Laws 2005, c. 53, § 4, eff. Nov. 1, 2005.

§22-60. Short title.
This act shall be known and may be cited as the "Protection from Domestic Abuse Act".
Added by Laws 1982, c. 255, § 1.

§22-60.1. Definitions.
As used in the Protection from Domestic Abuse Act and in the Domestic Abuse Reporting Act, Sections 40.5 through 40.7 of this title and Section 150.12B of Title 74 of the Oklahoma Statutes:
1. "Dating relationship" means intimate association, primarily characterized by affectionate or sexual involvement. For purposes of this act, a casual acquaintance or ordinary fraternization between persons in a business or social context shall not constitute a dating relationship;
2. "Domestic abuse" means any act of physical harm, or the threat of imminent physical harm which is committed by an adult, emancipated minor, or minor child thirteen (13) years of age or older against another adult, emancipated minor or minor child who is currently or was previously an intimate partner or family or household member;
3. "Family or household members" means:
   a. parents, including grandparents, stepparents, adoptive parents and foster parents,
   b. children, including grandchildren, stepchildren, adopted children and foster children, and
   c. persons otherwise related by blood or marriage living in the same household;
4. "Foreign protective order" means any valid order of protection issued by a court of another state or a tribal court;
5. "Harassment" means a knowing and willful course or pattern of conduct by a family or household member or an individual who is or has been involved in a dating relationship with the person, directed at a specific person which seriously alarms or annoys the person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial distress to the person. "Harassment" shall include, but not be limited to, harassing or obscene telephone calls in violation of Section 1172 of Title 21 of the Oklahoma Statutes and fear of death or bodily injury;
6. "Intimate partner" means:

a. current or former spouses,
b. persons who are or were in a dating relationship,
c. persons who are the biological parents of the same child, regardless of their marital status or whether they have lived together at any time, and
d. persons who currently or formerly lived together in an intimate way, primarily characterized by affectionate or sexual involvement. A sexual relationship may be an indicator that a person is an intimate partner, but is never a necessary condition;

7. "Mutual protective order" means a final protective order or orders issued to both a plaintiff who has filed a petition for a protective order and a defendant included as the defendant in the plaintiff's petition restraining the parties from committing domestic violence, stalking, harassment or rape against each other. If both parties allege domestic abuse, violence, stalking, harassment or rape against each other, the parties shall do so by separate petition pursuant to Section 60.4 of this title;

8. "Rape" means rape and rape by instrumentation in violation of Sections 1111 and 1111.1 of Title 21 of the Oklahoma Statutes;

9. "Stalking" means the willful, malicious, and repeated following or harassment of a person by an adult, emancipated minor, or minor thirteen (13) years of age or older, in a manner that would cause a reasonable person to feel frightened, intimidated, threatened, harassed, or molested and actually causes the person being followed or harassed to feel terrorized, frightened, intimidated, threatened, harassed or molested. Stalking also means a course of conduct composed of a series of two or more separate acts over a period of time, however short, evidencing a continuity of purpose or unconsented contact with a person that is initiated or continued without the consent of the individual or in disregard of the expressed desire of the individual that the contact be avoided or discontinued. Unconsented contact or course of conduct includes, but is not limited to:

a. following or appearing within the sight of that individual,
b. approaching or confronting that individual in a public place or on private property,
c. appearing at the workplace or residence of that individual,
d. entering onto or remaining on property owned, leased or occupied by that individual,
e. contacting that individual by telephone,
f. sending mail or electronic communications to that individual, or

g. placing an object on, or delivering an object to, property owned, leased or occupied by that individual; and

10. "Victim support person" means a person affiliated with a domestic violence, sexual assault or adult human sex trafficking program, certified by the Attorney General or operating under a tribal government, who provides support and assistance for a person who files a petition under the Protection from Domestic Abuse Act. Added by Laws 1982, c. 255, § 2, eff. Oct. 1, 1982. Amended by Laws 1986, c. 197, § 1, eff. Nov. 1, 1986; Laws 1991, c. 112, § 2, eff. Sept. 1, 1991; Laws 1992, c. 42, § 1, eff. Sept. 1, 1992; Laws 1994, c. 290, § 54, eff. July 1, 1994; Laws 1995, c. 297, § 1, eff. Nov. 1, 1995; Laws 1996, c. 247, § 29, eff. July 1, 1996; Laws 2000, c. 85, § 1, eff. Nov. 1, 2000; Laws 2000, c. 370, § 5, eff. July 1, 2000; Laws 2001, c. 279, § 2, eff. Nov. 1, 2001; Laws 2003, c. 407, § 1, eff. Nov. 1, 2003; Laws 2005, c. 348, § 14, eff. July 1, 2005; Laws 2010, c. 116, § 2, eff. Nov. 1, 2010; Laws 2019, c. 200, § 2, eff. Nov. 1, 2019.

§22-60.2. Protective order - Petition - Complaint requirement for certain stalking victims - Fees.

A. A victim of domestic abuse, a victim of stalking, a victim of harassment, a victim of rape, any adult or emancipated minor household member on behalf of any other family or household member who is a minor or incompetent, or any minor age sixteen (16) or seventeen (17) years may seek relief under the provisions of the Protection from Domestic Abuse Act.

1. The person seeking relief may file a petition for a protective order with the district court in the county in which the victim resides, the county in which the defendant resides, or the county in which the domestic violence occurred. If the person seeking relief is a victim of stalking but is not a family or household member or an individual who is or has been in a dating relationship with the defendant, the person seeking relief must file a complaint against the defendant with the proper law enforcement agency before filing a petition for a protective order with the district court. The person seeking relief shall provide a copy of the complaint that was filed with the law enforcement agency at the full hearing if the complaint is not available from the law enforcement agency. Failure to provide a copy of the complaint filed with the law enforcement agency shall constitute a frivolous filing and the court may assess attorney fees and court costs against the plaintiff pursuant to paragraph 2 of subsection C of this section. The filing of a petition for a protective order shall not require jurisdiction or venue of the criminal offense if either the plaintiff or defendant resides in the county. If a petition has been filed in an action for divorce or separate maintenance and either party to the

action files a petition for a protective order in the same county where the action for divorce or separate maintenance is filed, the petition for the protective order may be heard by the court hearing the divorce or separate maintenance action if:

a. there is no established protective order docket in such court, or

b. the court finds that, in the interest of judicial economy, both actions may be heard together; provided, however, the petition for a protective order, including, but not limited to, a petition in which children are named as petitioners, shall remain a separate action and a separate order shall be entered in the protective order action. Protective orders may be dismissed in favor of restraining orders in the divorce or separate maintenance action if the court specifically finds, upon hearing, that such dismissal is in the best interests of the parties and does not compromise the safety of any petitioner.

If the defendant is a minor child, the petition shall be filed with the court having jurisdiction over juvenile matters.

2. When the abuse occurs when the court is not open for business, such person may request an emergency temporary order of protection as authorized by Section 40.3 of this title.

B. The petition forms shall be provided by the clerk of the court. The Administrative Office of the Courts shall develop a standard form for the petition.

C. 1. Except as otherwise provided by this section, no filing fee, service of process fee, attorney fees or any other fee or costs shall be charged the plaintiff or victim at any time for filing a petition for a protective order whether a protective order is granted or not granted. The court may assess court costs, service of process fees, attorney fees, other fees and filing fees against the defendant at the hearing on the petition, if a protective order is granted against the defendant; provided, the court shall have authority to waive the costs and fees if the court finds that the party does not have the ability to pay the costs and fees.

2. If the court makes specific findings that a petition for a protective order has been filed frivolously and no victim exists, the court may assess attorney fees and court costs against the plaintiff.

D. The person seeking relief shall prepare the petition or, at the request of the plaintiff, the court clerk or the victim-witness coordinator, victim support person, and court case manager shall prepare or assist the plaintiff in preparing the petition.

E. The person seeking a protective order may further request the exclusive care, possession, or control of any animal owned, possessed, leased, kept, or held by either the petitioner, defendant or minor child residing in the residence of the petitioner or

defendant. The court may order the defendant to make no contact with the animal and forbid the defendant from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.

F. A court may not require the victim to seek legal sanctions against the defendant including, but not limited to, divorce, separation, paternity or criminal proceedings prior to hearing a petition for protective order.

G. A victim of rape, forcible sodomy, a sex offense, kidnapping, assault and battery with a deadly weapon or member of the immediate family of a victim of first-degree murder, as such terms are defined in Section 40 of this title, may petition for an emergency temporary order or emergency ex parte order regardless of any relationship or scenario pursuant to the provisions of this section. The Administrative Office of the Courts shall modify the petition forms as necessary to effectuate the provisions of this subsection. Added by Laws 1982, c. 255, § 3, eff. Oct. 1, 1982. Amended by Laws 1983, c. 290, § 1, eff. Nov. 1, 1983; Laws 1991, c. 112, § 3, eff. Sept. 1, 1991; Laws 1992, c. 42, § 2, eff. Sept. 1, 1992; Laws 1993, c. 325, § 15, eff. Sept. 1, 1993; Laws 1994, c. 290, § 55, eff. July 1, 1994; Laws 1996, c. 247, § 30, eff. July 1, 1996; Laws 1997, c. 403, § 7, eff. Nov. 1, 1997; Laws 2000, c. 370, § 6, eff. July 1, 2000; Laws 2001, c. 279, § 3, eff. Nov. 1, 2001; Laws 2003, c. 407, § 2, eff. Nov. 1, 2003; Laws 2006, c. 302, § 1, eff. Nov. 1, 2006; Laws 2008, c. 189, § 1, eff. Nov. 1, 2008; Laws 2010, c. 116, § 3, eff. Nov. 1, 2010; Laws 2013, c. 198, § 1, eff. Nov. 1, 2013; Laws 2019, c. 113, § 1, eff. Nov. 1, 2019.

§22-60.3. Emergency ex parte order and hearing - Emergency temporary ex parte order of protection.

A. If a plaintiff requests an emergency ex parte order pursuant to Section 60.2 of this title, the court shall hold an ex parte hearing on the same day the petition is filed, if the court finds sufficient grounds within the scope of the Protection from Domestic Abuse Act stated in the petition to hold such a hearing. The court may, for good cause shown at the hearing, issue any emergency ex parte order that it finds necessary to protect the victim from immediate and present danger of domestic abuse, stalking, or harassment. The emergency ex parte order shall be in effect until after the full hearing is conducted. Provided, if the defendant, after having been served, does not appear at the hearing, the emergency ex parte order shall remain in effect until the defendant is served with the permanent order. If the terms of the permanent order are the same as those in the emergency order, or are less restrictive, then it is not necessary to serve the defendant with the permanent order. The Administrative Office of the Courts shall develop a standard form for emergency ex parte protective orders.

B. An emergency ex parte protective order authorized by this section shall include the name, sex, race, date of birth of the defendant, and the dates of issue and expiration of the protective order.

C. If a plaintiff requests an emergency temporary ex parte order of protection as provided by Section 40.3 of this title, the judge who is notified of the request by a peace officer may issue such order verbally to the officer or in writing when there is reasonable cause to believe that the order is necessary to protect the victim from immediate and present danger of domestic abuse. When the order is issued verbally the judge shall direct the officer to complete and sign a statement attesting to the order. The emergency temporary ex parte order shall be in effect until the court date that was assigned by the court during the approval of the order. Emergency temporary ex parte orders shall be heard within fourteen (14) days after issuance. The court shall provide a list of available court dates for hearings.

D. If an action for divorce, separate maintenance, guardianship, adoption or any other proceeding involving custody or visitation has been filed and is pending in a county different than the county in which the emergency ex parte order was issued, the hearing on the petition for a final protective order shall be transferred and held in the same county in which the action for divorce, separate maintenance, guardianship, adoption or any other proceeding involving custody or visitation is pending.

Added by Laws 1982, c. 255, § 4, eff. Oct. 1, 1982. Amended by Laws 1983, c. 290, § 2, eff. Nov. 1, 1983; Laws 1992, c. 42, § 3, eff. Sept. 1, 1992; Laws 1993, c. 325, § 16, eff. Sept. 1, 1993; Laws 1994, c. 290, § 56, eff. July 1, 1994; Laws 1996, c. 247, § 31, eff. July 1, 1996; Laws 1999, c. 34, § 1, eff. Nov. 1, 1999; Laws 2000, c. 370, § 7, eff. July 1, 2000; Laws 2001, c. 279, § 4, eff. Nov. 1, 2001; Laws 2003, c. 407, § 3, eff. Nov. 1, 2003; Laws 2016, c. 183, § 5, eff. Nov. 1, 2016; Laws 2019, c. 113, § 2, eff. Nov. 1, 2019.

§22-60.4. Service of emergency ex parte order or emergency temporary order, petition for protective order and notice of hearing - Full hearing - Final protective order.

A. 1. A copy of a petition for a protective order, any notice of hearing and a copy of any emergency temporary order or emergency ex parte order issued by the court shall be served upon the defendant in the same manner as a bench warrant. In addition, if the service is to be in another county, the court clerk may issue service to the sheriff by facsimile or other electronic transmission for service by the sheriff and receive the return of service from the sheriff in the same manner. Any fee for service of a petition for protective order, notice of hearing, and emergency ex parte order shall only be charged pursuant to subsection C of Section 60.2 of this title and, if

charged, shall be the same as the sheriff's service fee plus mileage expenses.

2. Emergency temporary orders, emergency ex parte orders and notice of hearings shall be given priority for service and can be served twenty-four (24) hours a day when the location of the defendant is known. When service cannot be made upon the defendant by the sheriff, the sheriff may contact another law enforcement officer or a private investigator or private process server to serve the defendant.

3. An emergency temporary order, emergency ex parte order, a petition for protective order, and a notice of hearing shall have statewide validity and may be transferred to any law enforcement jurisdiction to effect service upon the defendant. The sheriff may transmit the document by electronic means.

4. The return of service shall be submitted to the sheriff's office or court clerk in the court where the petition, notice of hearing or order was issued.

5. When the defendant is a minor child who is ordered removed from the residence of the victim, in addition to those documents served upon the defendant, a copy of the petition, notice of hearing and a copy of any temporary order or ex parte order issued by the court shall be delivered with the child to the caretaker of the place where such child is taken pursuant to Section 2-2-101 of Title 10A of the Oklahoma Statutes.

B. 1. Within fourteen (14) days of the filing of the petition for a protective order, the court shall schedule a full hearing on the petition, if the court finds sufficient grounds within the scope of the Protection from Domestic Abuse Act stated in the petition to hold such a hearing, regardless of whether an emergency temporary order or ex parte order has been previously issued, requested or denied. Provided, however, when the defendant is a minor child who has been removed from the residence pursuant to Section 2-2-101 of Title 10A of the Oklahoma Statutes, the court shall schedule a full hearing on the petition within seventy-two (72) hours, regardless of whether an emergency temporary order or ex parte order has been previously issued, requested or denied.

2. The court may schedule a full hearing on the petition for a protective order within seventy-two (72) hours when the court issues an emergency temporary order or ex parte order suspending child visitation rights due to physical violence or threat of abuse.

3. If service has not been made on the defendant at the time of the hearing, the court shall, at the request of the petitioner, issue a new emergency order reflecting a new hearing date and direct service to issue.

4. A petition for a protective order shall, upon the request of the petitioner, renew every fourteen (14) days with a new hearing date assigned until the defendant is served. A petition for a

protective order shall not expire unless the petitioner fails to appear at the hearing or fails to request a new order. A petitioner may move to dismiss the petition and emergency or final order at any time; however, a protective order must be dismissed by court order.

5. Failure to serve the defendant shall not be grounds for dismissal of a petition or an ex parte order unless the victim requests dismissal or fails to appear for the hearing thereon.

6. A final protective order shall be granted or denied within six (6) months of service on the defendant unless all parties agree that a temporary protective order remain in effect; provided, a victim shall have the right to request a final protective order hearing at any time after the passage of six (6) months.

C. 1. At the hearing, the court may impose any terms and conditions in the protective order that the court reasonably believes are necessary to bring about the cessation of domestic abuse against the victim or stalking or harassment of the victim or the immediate family of the victim but shall not impose any term and condition that may compromise the safety of the victim including, but not limited to, mediation, couples counseling, family counseling, parenting classes or joint victim-offender counseling sessions. The court may order the defendant to obtain domestic abuse counseling or treatment in a program certified by the Attorney General at the expense of the defendant pursuant to Section 644 of Title 21 of the Oklahoma Statutes.

2. If the court grants a protective order and the defendant is a minor child, the court shall order a preliminary inquiry in a juvenile proceeding to determine whether further court action pursuant to the Oklahoma Juvenile Code should be taken against a juvenile defendant.

D. Final protective orders authorized by this section shall be on a standard form developed by the Administrative Office of the Courts.

E. 1. After notice and hearing, protective orders authorized by this section may require the defendant to undergo treatment or participate in the court-approved counseling services necessary to bring about cessation of domestic abuse against the victim pursuant to Section 644 of Title 21 of the Oklahoma Statutes but shall not order any treatment or counseling that may compromise the safety of the victim including, but not limited to, mediation, couples counseling, family counseling, parenting classes or joint victim-offender counseling sessions.

2. The defendant may be required to pay all or any part of the cost of such treatment or counseling services. The court shall not be responsible for such cost.

3. Should the plaintiff choose to undergo treatment or participate in court-approved counseling services for victims of domestic abuse, the court may order the defendant to pay all or any

part of the cost of such treatment or counseling services if the court determines that payment by the defendant is appropriate.

F. When necessary to protect the victim and when authorized by the court, protective orders granted pursuant to the provisions of this section may be served upon the defendant by a peace officer, sheriff, constable, or policeman or other officer whose duty it is to preserve the peace, as defined by Section 99 of Title 21 of the Oklahoma Statutes.

G. 1. Any protective order issued on or after November 1, 2012, pursuant to subsection C of this section shall be:

a. for a fixed period not to exceed a period of five (5) years unless extended, modified, vacated or rescinded upon motion by either party or if the court approves any consent agreement entered into by the plaintiff and defendant; provided, if the defendant is incarcerated, the protective order shall remain in full force and effect during the period of incarceration. The period of incarceration, in any jurisdiction, shall not be included in the calculation of the five-year time limitation, or

b. continuous upon a specific finding by the court of one of the following:

(1) the person has a history of violating the orders of any court or governmental entity,

(2) the person has previously been convicted of a violent felony offense,

(3) the person has a previous felony conviction for stalking as provided in Section 1173 of Title 21 of the Oklahoma Statutes, or

(4) a court order for a final Victim Protection Order has previously been issued against the person in this state or another state.

Further, the court may take into consideration whether the person has a history of domestic violence or a history of other violent acts. The protective order shall remain in effect until modified, vacated or rescinded upon motion by either party or if the court approves any consent agreement entered into by the plaintiff and defendant. If the defendant is incarcerated, the protective order shall remain in full force and effect during the period of incarceration.

2. The court shall notify the parties at the time of the issuance of the protective order of the duration of the protective order.

3. Upon the filing of a motion by either party to modify, extend, or vacate a protective order, a hearing shall be scheduled and notice given to the parties. At the hearing, the issuing court may take such action as is necessary under the circumstances.

4. If a child has been removed from the residence of a parent or custodial adult because of domestic abuse committed by the child, the parent or custodial adult may refuse the return of such child to the residence unless, upon further consideration by the court in a juvenile proceeding, it is determined that the child is no longer a threat and should be allowed to return to the residence.

H. 1. It shall be unlawful for any person to knowingly and willfully seek a protective order against a spouse or ex-spouse pursuant to the Protection from Domestic Abuse Act for purposes of harassment, undue advantage, intimidation, or limitation of child visitation rights in any divorce proceeding or separation action without justifiable cause.

2. The violator shall, upon conviction thereof, be guilty of a misdemeanor punishable by imprisonment in the county jail for a period not exceeding one (1) year or by a fine not to exceed Five Thousand Dollars ($5,000.00), or by both such fine and imprisonment.

3. A second or subsequent conviction under this subsection shall be a felony punishable by imprisonment in the custody of the Department of Corrections for a period not to exceed two (2) years, or by a fine not to exceed Ten Thousand Dollars ($10,000.00), or by both such fine and imprisonment.

I. 1. A protective order issued under the Protection from Domestic Abuse Act shall not in any manner affect title to real property, purport to grant to the parties a divorce or otherwise purport to determine the issues between the parties as to child custody, visitation or visitation schedules, child support or division of property or any other like relief obtainable pursuant to Title 43 of the Oklahoma Statutes, except child visitation orders may be temporarily suspended or modified to protect from threats of abuse or physical violence by the defendant or a threat to violate a custody order. Orders not affecting title may be entered for good cause found to protect an animal owned by either of the parties or any child living in the household.

2. When granting any protective order for the protection of a minor child from violence or threats of abuse, the court shall allow visitation only under conditions that provide adequate supervision and protection to the child while maintaining the integrity of a divorce decree or temporary order.

J. 1. In order to ensure that a petitioner can maintain an existing wireless telephone number or household utility account, the court, after providing notice and a hearing, may issue an order directing a wireless service provider or public utility provider to transfer the billing responsibility for and rights to the wireless telephone number or numbers of any minor children in the care of the petitioning party or household utility account to the petitioner if the petitioner is not the wireless service or public utility account holder.

2. The order transferring billing responsibility for and rights to the wireless telephone number or numbers or household utility account to the petitioner shall list the name and billing telephone number of the account holder, the name and contact information of the person to whom the telephone number or numbers or household utility account will be transferred and each telephone number or household utility to be transferred to that person. The court shall ensure that the contact information of the petitioner is not provided to the account holder in proceedings held under this subsection.

3. Upon issuance, a copy of the final order of protection shall be transmitted, either electronically or by certified mail, to the registered agent of the wireless service provider or public utility provider listed with the Secretary of State or Corporation Commission of Oklahoma or electronically to the email address provided by the wireless service provider or public utility provider. Such transmittal shall constitute adequate notice for the wireless service provider or public utility provider.

4. If the wireless service provider or public utility provider cannot operationally or technically effectuate the order due to certain circumstances, the wireless service provider or public utility provider shall notify the petitioner. Such circumstances shall include, but not be limited to, the following:

a. the account holder has already terminated the account,

b. the differences in network technology prevent the functionality of a mobile device on the network, or

c. there are geographic or other limitations on network or service availability.

5. Upon transfer of billing responsibility for and rights to a wireless telephone number or numbers or household utility account to the petitioner under the provisions of this subsection by a wireless service provider or public utility provider, the petitioner shall assume all financial responsibility for the transferred wireless telephone number or numbers or household utility account, monthly service and utility billing costs and costs for any mobile device associated with the wireless telephone number or numbers. The wireless service provider or public utility provider shall have the right to pursue the original account holder for purposes of collecting any past due amounts owed to the wireless service provider or public utility provider.

6. The provisions of this subsection shall not preclude a wireless service provider or public utility provider from applying any routine and customary requirements for account establishment to the petitioner as part of this transfer of billing responsibility for a household utility account or for a wireless telephone number or numbers and any mobile devices attached to that number including, but not limited to, identification, financial information and customer preferences.

7. The provisions of this subsection shall not affect the ability of the court to apportion the assets and debts of the parties as provided for in law or the ability to determine the temporary use, possession and control of personal property.

8. No cause of action shall lie against any wireless service provider or public utility provider, its officers, employees or agents for actions taken in accordance with the terms of a court order issued under the provisions of this subsection.

9. As used in this subsection:

a. "wireless service provider" means a provider of commercial mobile service under Section 332(d) of the federal Telecommunications Act of 1996,

b. "public utility provider" means every corporation organized or doing business in this state that owns, operates or manages any plant or equipment for the manufacture, production, transmission, transportation, delivery or furnishing of water, heat or light with gas or electric current for heat, light or power, for public use in this state, and

c. "household utility account" shall include utility services for water, heat, light, power or gas that are provided by a public utility provider.

K. 1. A court shall not issue any mutual protective orders.

2. If both parties allege domestic abuse by the other party, the parties shall do so by separate petitions. The court shall review each petition separately in an individual or a consolidated hearing and grant or deny each petition on its individual merits. If the court finds cause to grant both motions, the court shall do so by separate orders and with specific findings justifying the issuance of each order.

3. The court may only consolidate a hearing if:

a. the court makes specific findings that:

(1) sufficient evidence exists of domestic abuse, stalking, harassment or rape against each party, and

(2) each party acted primarily as aggressors,

b. the defendant filed a petition with the court for a protective order no less than three (3) days, not including weekends or holidays, prior to the first scheduled full hearing on the petition filed by the plaintiff, and

c. the defendant had no less than forty-eight (48) hours of notice prior to the full hearing on the petition filed by the plaintiff.

L. The court may allow a plaintiff or victim to be accompanied by a victim support person at court proceedings. A victim support person shall not make legal arguments; however, a victim support

person who is not a licensed attorney may offer the plaintiff or victim comfort or support and may remain in close proximity to the plaintiff or victim.
Added by Laws 1982, c. 255, § 5, eff. Oct. 1, 1982. Amended by Laws 1983, c. 290, § 3, eff. Nov. 1, 1983; Laws 1987, c. 174, § 1, operative July 1, 1987; Laws 1992, c. 42, § 4, eff. Sept. 1, 1992; Laws 1992, c. 379, § 1, eff. Sept. 1, 1992; Laws 1994, c. 290, § 57, eff. July 1, 1994; Laws 1996, c. 247, § 32, eff. July 1, 1996; Laws 1999, c. 97, § 1, eff. Nov. 1, 1999; Laws 2000, c. 370, § 8, eff. July 1, 2000; Laws 2001, c. 279, § 5, eff. Nov. 1, 2001; Laws 2003, c. 407, § 4, eff. Nov. 1, 2003; Laws 2005, c. 348, § 15, eff. July 1, 2005; Laws 2006, c. 34, § 1, eff. Nov. 1, 2006; Laws 2009, c. 234, § 128, emerg. eff. May 21, 2009; Laws 2010, c. 116, § 4, eff. Nov. 1, 2010; Laws 2011, c. 102, § 1, eff. Nov. 1, 2011; Laws 2012, c. 313, § 1, eff. Nov. 1, 2012; Laws 2013, c. 198, § 2, eff. Nov. 1, 2013; Laws 2016, c. 281, § 1, eff. Nov. 1, 2016; Laws 2017, c. 173, § 1, eff. Nov. 1, 2017; Laws 2019, c. 113, § 3, eff. Nov. 1, 2019.

§22-60.5. Access to protective orders by law enforcement agencies.

A. Within twenty-four (24) hours of the return of service of any emergency temporary, ex parte or final protective order, the clerk of the issuing court shall send certified copies thereof to all appropriate law enforcement agencies designated by the plaintiff. A certified copy of any extension, modification, vacation, cancellation or consent agreement concerning a final protective order shall be sent within twenty-four (24) hours by the clerk of the issuing court to those law enforcement agencies receiving the original orders pursuant to this section and to any law enforcement agencies designated by the court.

B. Any law enforcement agency receiving copies of the documents listed in subsection A of this section shall be required to ensure that other law enforcement agencies have access twenty-four (24) hours a day to the information contained in the documents which may include entry of information about the emergency temporary, ex parte or final protective order in the National Crime Information Center database.
Added by Laws 1982, c. 255, § 6, eff. Oct. 1, 1982. Amended by Laws 1983, c. 290, § 4, eff. Nov. 1, 1983; Laws 1994, c. 290, § 58, eff. July 1, 1994; Laws 1997, c. 368, § 2, eff. Nov. 1, 1997; Laws 1999, c. 97, § 2, eff. Nov. 1, 1999; Laws 2000, c. 370, § 9, eff. July 1, 2000; Laws 2019, c. 113, § 4, eff. Nov. 1, 2019.

§22-60.6. Violation of emergency temporary, ex parte or final protective order - Penalties.

A. Except as otherwise provided by this section, any person who:

1. Has been served with an emergency temporary, ex parte or final protective order or foreign protective order and is in

violation of such protective order, upon conviction, shall be guilty of a misdemeanor and shall be punished by a fine of not more than One Thousand Dollars ($1,000.00) or by a term of imprisonment in the county jail of not more than one (1) year, or by both such fine and imprisonment; and

2. After a previous conviction of a violation of a protective order, is convicted of a second or subsequent offense pursuant to the provisions of this section shall, upon conviction, be guilty of a felony and shall be punished by a term of imprisonment in the custody of the Department of Corrections for not less than one (1) year nor more than three (3) years, or by a fine of not less than Two Thousand Dollars ($2,000.00) nor more than Ten Thousand Dollars ($10,000.00), or by both such fine and imprisonment.

B. 1. Any person who has been served with an emergency temporary, ex parte or final protective order or foreign protective order who violates the protective order and causes physical injury or physical impairment to the plaintiff or to any other person named in said protective order shall, upon conviction, be guilty of a misdemeanor and shall be punished by a term of imprisonment in the county jail for not less than twenty (20) days nor more than one (1) year. In addition to the term of imprisonment, the person may be punished by a fine not to exceed Five Thousand Dollars ($5,000.00).

2. Any person who is convicted of a second or subsequent violation of a protective order which causes physical injury or physical impairment to a plaintiff or to any other person named in the protective order shall be guilty of a felony and shall be punished by a term of imprisonment in the custody of the Department of Corrections of not less than one (1) year nor more than five (5) years, or by a fine of not less than Three Thousand Dollars ($3,000.00) nor more than Ten Thousand Dollars ($10,000.00), or by both such fine and imprisonment.

3. In determining the term of imprisonment required by this section, the jury or sentencing judge shall consider the degree of physical injury or physical impairment to the victim.

4. The provisions of this subsection shall not affect the applicability of Sections 644, 645, 647 and 652 of Title 21 of the Oklahoma Statutes.

C. The minimum sentence of imprisonment issued pursuant to the provisions of paragraph 2 of subsection A and paragraph 2 of subsection B of this section shall not be subject to statutory provisions for suspended sentences, deferred sentences or probation, provided the court may subject any remaining penalty under the jurisdiction of the court to the statutory provisions for suspended sentences, deferred sentences or probation.

D. In addition to any other penalty specified by this section, the court shall require a defendant to undergo the treatment or participate in the counseling services necessary to bring about the

cessation of domestic abuse against the victim or to bring about the cessation of stalking or harassment of the victim. For every conviction of violation of a protective order:

1. The court shall specifically order as a condition of a suspended sentence or probation that a defendant participate in counseling or undergo treatment to bring about the cessation of domestic abuse as specified in paragraph 2 of this subsection;

2. a. The court shall require the defendant to participate in counseling or undergo treatment for domestic abuse by an individual licensed practitioner or a domestic abuse treatment program certified by the Attorney General. If the defendant is ordered to participate in a domestic abuse counseling or treatment program, the order shall require the defendant to attend the program for a minimum of fifty-two (52) weeks, complete the program, and be evaluated before and after attendance of the program by a program counselor or a private counselor.

b. A program for anger management, couples counseling, or family and marital counseling shall not solely qualify for the counseling or treatment requirement for domestic abuse pursuant to this subsection. The counseling may be ordered in addition to counseling specifically for the treatment of domestic abuse or per evaluation as set forth below. If, after sufficient evaluation and attendance at required counseling sessions, the domestic violence treatment program or licensed professional determines that the defendant does not evaluate as a perpetrator of domestic violence or does evaluate as a perpetrator of domestic violence and should complete other programs of treatment simultaneously or prior to domestic violence treatment, including but not limited to programs related to the mental health, apparent substance or alcohol abuse or inability or refusal to manage anger, the defendant shall be ordered to complete the counseling as per the recommendations of the domestic violence treatment program or licensed professional;

3. a. The court shall set a review hearing no more than one hundred twenty (120) days after the defendant is ordered to participate in a domestic abuse counseling program or undergo treatment for domestic abuse to assure the attendance and compliance of the defendant with the provisions of this subsection and the domestic abuse counseling or treatment requirements.

b. The court shall set a second review hearing after the completion of the counseling or treatment to assure the

attendance and compliance of the defendant with the provisions of this subsection and the domestic abuse counseling or treatment requirements. The court may suspend sentencing of the defendant until the defendant has presented proof to the court of enrollment in a program of treatment for domestic abuse by an individual licensed practitioner or a domestic abuse treatment program certified by the Attorney General and attendance at weekly sessions of such program. Such proof shall be presented to the court by the defendant no later than one hundred twenty (120) days after the defendant is ordered to such counseling or treatment. At such time, the court may complete sentencing, beginning the period of the sentence from the date that proof of enrollment is presented to the court, and schedule reviews as required by subparagraphs a and b of this paragraph and paragraphs 4 and 5 of this subsection. The court shall retain continuing jurisdiction over the defendant during the course of ordered counseling through the final review hearing;

4. The court may set subsequent or other review hearings as the court determines necessary to assure the defendant attends and fully complies with the provisions of this subsection and the domestic abuse counseling or treatment requirements;

5. At any review hearing, if the defendant is not satisfactorily attending individual counseling or a domestic abuse counseling or treatment program or is not in compliance with any domestic abuse counseling or treatment requirements, the court may order the defendant to further or continue counseling, treatment, or other necessary services. The court may revoke all or any part of a suspended sentence, deferred sentence, or probation pursuant to Section 991b of this title and subject the defendant to any or all remaining portions of the original sentence;

6. At the first review hearing, the court shall require the defendant to appear in court. Thereafter, for any subsequent review hearings, the court may accept a report on the progress of the defendant from individual counseling, domestic abuse counseling, or the treatment program. There shall be no requirement for the victim to attend review hearings; and

7. If funding is available, a referee may be appointed and assigned by the presiding judge of the district court to hear designated cases set for review under this subsection. Reasonable compensation for the referees shall be fixed by the presiding judge. The referee shall meet the requirements and perform all duties in the same manner and procedure as set forth in Sections 1-8-103 and 2-2-702 of Title 10A of the Oklahoma Statutes pertaining to referees appointed in juvenile proceedings.

E. Emergency temporary, ex parte and final protective orders shall include notice of these penalties.

F. When a minor child violates the provisions of any protective order, the violation shall be heard in a juvenile proceeding and the court may order the child and the parent or parents of the child to participate in family counseling services necessary to bring about the cessation of domestic abuse against the victim and may order community service hours to be performed in lieu of any fine or imprisonment authorized by this section.

G. Any district court of this state and any judge thereof shall be immune from any liability or prosecution for issuing an order that requires a defendant to:

1. Attend a treatment program for domestic abusers certified by the Attorney General;

2. Attend counseling or treatment services ordered as part of any final protective order or for any violation of a protective order; and

3. Attend, complete, and be evaluated before and after attendance by a treatment program for domestic abusers certified by the Attorney General.

H. At no time, under any proceeding, may a person protected by a protective order be held to be in violation of that protective order. Only a defendant against whom a protective order has been issued may be held to have violated the order.

I. In addition to any other penalty specified by this section, the court may order a defendant to use an active, real-time, twenty-four-hour Global Positioning System (GPS) monitoring device as a condition of a sentence. The court may further order the defendant to pay costs and expenses related to the GPS device and monitoring. Added by Laws 1982, c. 255, § 7. Amended by Laws 1983, c. 290, § 5, eff. Nov. 1, 1983; Laws 1988, c. 249, § 1, emerg. eff. June 27, 1988; Laws 1992, c. 42, § 5, eff. Sept. 1, 1992; Laws 1994, c. 290, § 59, eff. July 1, 1994; Laws 1995, c. 297, § 2, eff. Nov. 1, 1995; Laws 1996, c. 247, § 33, eff. July 1, 1996; Laws 2000, c. 85, § 2, eff. Nov. 1, 2000; Laws 2004, c. 516, § 2, eff. July 1, 2005; Laws 2005, c. 348, § 16, eff. July 1, 2005; Laws 2006, c. 284, § 4, emerg. eff. June 7, 2006; Laws 2007, c. 156, § 5, eff. Nov. 1, 2007; Laws 2008, c. 114, § 1, eff. Nov. 1, 2008; Laws 2008, c. 403, § 2, eff. Nov. 1, 2008; Laws 2009, c. 234, § 129, emerg. eff. May 21, 2009; Laws 2019, c. 113, § 5, eff. Nov. 1, 2019.

§22-60.7. Statewide and nationwide validity of orders.

All orders issued pursuant to the provisions of the Protection from Domestic Abuse Act, Section 60 et seq. of this title, shall have statewide and nationwide validity, unless specifically modified or terminated by a judge of the district courts.

Added by Laws 1983, c. 290, § 6, eff. Nov. 1, 1983. Amended by Laws 1991, c. 112, § 4, eff. Sept. 1, 1991; Laws 2000, c. 85, § 3, eff. Nov. 1, 2000.

§22-60.8. Seizure and forfeiture of weapons used to commit act of domestic abuse.

A. Each peace officer of this state shall seize any weapon or instrument when such officer has probable cause to believe such weapon or instrument has been used to commit an act of domestic abuse as defined by Section 60.1 of this title, provided an arrest is made, if possible, at the same time.

B. After any such seizure, the District Attorney shall file a notice of seizure and forfeiture as provided in this section within ten (10) days of such seizure, or any weapon or instrument seized pursuant to this section shall be returned to the owner.

C. The seizure and forfeiture provisions of Section 991a-19 of this title shall be followed for any seizure and forfeiture of property pursuant to this section. No weapon or instrument seized pursuant to this section or monies from the sale of any such seized weapon or instrument shall be turned over to the person from whom such property was seized if a forfeiture action has been filed within the time required by subsection B of this section, unless authorized by this section. Provided further, the owner may prove at the forfeiture hearing that the conduct giving rise to the seizure was justified, and if the owner proves justification, the seized property shall be returned to the owner. Any proceeds gained from this seizure shall be placed in the Crime Victims Compensation Revolving Fund.

Added by Laws 1993, c. 235, § 1, eff. Sept. 1, 1993. Amended by Laws 2000, c. 370, § 10, eff. July 1, 2000; Laws 2002, c. 443, § 2, eff. July 1, 2002.

§22-60.9. Warrantless arrest.

A. Pursuant to paragraph 7 of Section 196 of this title, a peace officer, without a warrant, shall arrest and take into custody a person if the peace officer has reasonable cause to believe that:

1. An emergency ex parte or final protective order has been issued and served upon the person, pursuant to the Protection from Domestic Abuse Act;

2. A true copy and proof of service of the order has been filed with the law enforcement agency having jurisdiction of the area in which the plaintiff or any family or household member named in the order resides or a certified copy of the order and proof of service is presented to the peace officer as provided in subsection D of this section;

3. The person named in the order has received notice of the order and has had a reasonable time to comply with such order; and

4. The person named in the order has violated the order or is then acting in violation of the order.

B. A peace officer, without a warrant, shall arrest and take into custody a person if the following conditions have been met:

1. The peace officer has reasonable cause to believe that a foreign protective order has been issued, pursuant to the law of the state or tribal court where the foreign protective order was issued;

2. A certified copy of the foreign protective order has been presented to the peace officer that appears valid on its face; and

3. The peace officer has reasonable cause to believe the person named in the order has violated the order or is then acting in violation of the order.

C. A person arrested pursuant to this section shall be brought before the court within twenty-four (24) hours after arrest to answer to a charge for violation of the order pursuant to Section 60.8 of this title, at which time the court shall do each of the following:

1. Set a time certain for a hearing on the alleged violation of the order within seventy-two (72) hours after arrest, unless extended by the court on the motion of the arrested person;

2. Set a reasonable bond pending a hearing of the alleged violation of the order; and

3. Notify the party who has procured the order and direct the party to appear at the hearing and give evidence on the charge.

The court may also consider the safety of any and all alleged victims that are subject to the protection of the order prior to the court setting a reasonable bond pending a hearing of the alleged violation of the order.

D. A copy of a protective order shall be prima facie evidence that such order is valid in this state when such documentation is presented to a law enforcement officer by the plaintiff, defendant, or another person on behalf of a person named in the order. Any law enforcement officer may rely on such evidence to make an arrest for a violation of such order, if there is reason to believe the defendant has violated or is then acting in violation of the order without justifiable excuse. When a law enforcement officer relies upon the evidence specified in this subsection, such officer and the employing agency shall be immune from liability for the arrest of the defendant if it is later proved that the evidence was false.

E. Any person who knowingly and willfully presents any false or materially altered protective order to any law enforcement officer to effect an arrest of any person shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a period not to exceed two (2) years, or by a fine not exceeding Five Thousand Dollars ($5,000.00) and shall, in addition, be liable for any civil damages to the defendant.

Added by Laws 1994, c. 316, § 1, emerg. eff. June 8, 1994. Amended by Laws 2000, c. 85, § 4, eff. Nov. 1, 2000; Laws 2000, c. 370, § 11,

eff. July 1, 2000; Laws 2006, c. 284, § 5, emerg. eff. June 7, 2006; Laws 2013, c. 198, § 3, eff. Nov. 1, 2013.

§22-60.11. Protective order – Statement required - Validity.

In addition to any other provisions required by the Protection from Domestic Abuse Act, or otherwise required by law, each ex parte or final protective order issued pursuant to the Protection from Domestic Abuse Act shall have a statement printed in bold-faced type or in capital letters containing the following information:

1. The filing or nonfiling of criminal charges and the prosecution of the case shall not be determined by a person who is protected by the protective order, but shall be determined by the prosecutor;

2. No person, including a person who is protected by the order, may give permission to anyone to ignore or violate any provision of the order. During the time in which the order is valid, every provision of the order shall be in full force and effect unless a court changes the order;

3. The order shall be in effect for a fixed period of five (5) years unless extended, modified, vacated or rescinded by the court or shall be continuous upon a specific finding by the court as provided in subparagraph b of paragraph 1 of subsection G of Section 60.4 of this title unless modified, vacated or rescinded by the court;

4. A violation of the order is punishable by a fine of up to One Thousand Dollars ($1,000.00) or imprisonment for up to one (1) year in the county jail, or by both such fine and imprisonment. A violation of the order which causes injury is punishable by imprisonment for twenty (20) days to one (1) year in the county jail or a fine of up to Five Thousand Dollars ($5,000.00), or by both such fine and imprisonment; and

5. Possession of a firearm or ammunition by a defendant while an order is in effect may subject the defendant to prosecution for a violation of federal law even if the order does not specifically prohibit the defendant from possession of a firearm or ammunition. Added by Laws 1995, c. 297, § 3, eff. Nov. 1, 1995. Amended by Laws 1999, c. 97, § 3, eff. Nov. 1, 1999; Laws 1999, c. 417, § 4, emerg. eff. June 10, 1999; Laws 2003, c. 407, § 5, eff. Nov. 1, 2003; Laws 2012, c. 313, § 2, eff. Nov. 1, 2012.

§22-60.12. Foreign protective orders – Presumption of validity – Peace officers immune from liability.

A. It is the intent of the Legislature that all foreign protective orders shall have the rebuttable presumption of validity, even if the foreign protective order contains provisions which could not be contained in a protective order issued by an Oklahoma court. The validity of a foreign protective order shall only be determined by a court of competent jurisdiction. Until a foreign protective

order is declared invalid by a court of competent jurisdiction it shall be given full faith and credit by all peace officers and courts in the State of Oklahoma.

B. A peace officer of this state shall be immune from liability for enforcing provisions of a foreign protective order.

Added by Laws 2000, c. 85, § 5, eff. Nov. 1, 2000.

§22-60.13. Repealed by Laws 2003, c. 407, § 7, eff. Nov. 1, 2003.

§22-60.14. Address confidentiality program.

A. The Legislature finds that persons attempting to escape from actual or threatened domestic violence, sexual assault, or stalking frequently establish new addresses in order to prevent their assailants or probable assailants from finding them. The purpose of this section is to enable state and local agencies to respond to requests for public records without disclosing the location of a victim of domestic abuse, sexual assault, or stalking, to enable interagency cooperation with the Attorney General in providing address confidentiality for victims of domestic abuse, sexual assault, or stalking, and to enable state and local agencies to accept an address designated by the Attorney General by a program participant as a substitute mailing address.

B. As used in this section:

1. "Address" means a residential street address, school address, or work address of an individual, as specified on the application of an individual to be a program participant under this section;

2. "Program participant" means a person certified as a program participant under this section;

3. "Domestic abuse" means an act as defined in Section 60.1 of this title and includes a threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law enforcement officers; and

4. "Stalking" means an act as defined in Section 60.1 of this title regardless of whether the acts have been reported to law enforcement.

C. The Address Confidentiality Program shall be staffed by unclassified employees, who have been subjected to a criminal history records search.

D. 1. An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an incapacitated person, as defined by Section 1-111 of Title 30 of the Oklahoma Statutes, may apply to the Attorney General to have an address designated by the Attorney General serve as the address of the person or the address of the minor or incapacitated person. The Attorney General shall approve an application if it is filed in the manner and on the form prescribed by the Attorney General and if it contains:

a. a sworn statement by the applicant that the applicant has good reason to believe:
   (1) that the applicant, or the minor or incapacitated person on whose behalf the application is made, is a victim of domestic abuse, sexual assault, or stalking, and
   (2) that the applicant fears for the safety of self or children, or the safety of the minor or incapacitated person on whose behalf the application is made,
b. a designation of the Attorney General as agent for purposes of service of process and for the purpose of receipt of mail,
c. the mailing address where the applicant can be contacted by the Attorney General, and the phone number or numbers where the applicant can be called by the Attorney General,
d. the new address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of domestic abuse, sexual assault, or stalking, and
e. the signature of the applicant and application assistant who assisted in the preparation of the application, and the date on which the applicant signed the application.

2. An adult or minor child who resides with the applicant who also needs to be a program participant in order to ensure the safety of the applicant may apply. Each adult living in the household must complete a separate application. An adult may apply on behalf of a minor.

3. Applications shall be filed with the Office of the Attorney General.

4. Upon filing a properly completed application, the Attorney General shall certify the applicant as a program participant. Applicants shall be certified for four (4) years following the date of filing unless the certification is withdrawn or invalidated before that date. The Attorney General shall by rule establish a renewal procedure.

5. A person who falsely attests in an application that disclosure of the address of the applicant would endanger the safety of the applicant or the safety of the children of the applicant or the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, may be found guilty of perjury under Sections 500 and 504 of Title 21 of the Oklahoma Statutes.

E. 1. If the program participant obtains a name change, the participant loses certification as a program participant.

2. The Attorney General may cancel the certification of a program participant if there is a change in the residential address, unless the program participant provides the Attorney General notice no later than seven (7) days after the change occurs.

3. The Attorney General may cancel certification of a program participant if mail forwarded by the Attorney General to the address of the program participant is returned as nondeliverable.

4. The Attorney General shall cancel certification of a program participant who applies using false information.

F. 1. A program participant may request that state and local agencies use the address designated by the Attorney General as the address of the participant. When creating a new public record, state and local agencies shall accept the address designated by the Attorney General as a substitute address for the program participant, unless the Attorney General has determined that:

a. the agency has a bona fide statutory or administrative requirement for the use of the address which would otherwise be confidential under this section, and

b. this address will be used only for those statutory and administrative purposes.

2. A program participant may use the address designated by the Attorney General as a work address.

3. The Office of the Attorney General shall forward all first class, certified and registered mail to the appropriate program participants for no charge. The Attorney General shall not be required to track or otherwise maintain records of any mail received on behalf of a participant unless the mail is certified or registered mail.

G. The Attorney General may not make any records in a file of a program participant available for inspection or copying, other than the address designated by the Attorney General, except under the following circumstances:

1. If directed by a court order, to a person identified in the order; or

2. To verify the participation of a specific program participant to a state or local agency, in which case the Attorney General may only confirm information supplied by the requester.

No employee of a state or local agency shall knowingly and intentionally disclose a program participant’s actual address unless disclosure is permitted by law.

H. The Attorney General shall designate state and local agencies, federal government, federally recognized tribes, and nonprofit agencies to assist persons in applying to be program participants. A volunteer or employee of a designated entity that provides counseling, referral, shelter, or other services to victims of domestic abuse, sexual assault, or stalking and has been trained by the Attorney General shall be known as an application assistant.

Any assistance and counseling rendered by the Office of the Attorney General or an application assistant to applicants shall in no way be construed as legal advice.

I. The Attorney General may enter into agreements with the federal government and federally recognized tribes in the State of Oklahoma or other entities for purposes of the implementation of the Address Confidentiality Program, including the use and acceptance of the substitute address designated by the Attorney General.

J. Effective July 1, 2008, all administrative rules promulgated by the Office of the Secretary of State to implement this program shall be transferred to and become part of the administrative rules of the Office of the Attorney General. The Office of Administrative Rules in the Office of the Secretary of State shall provide adequate notice in "The Oklahoma Register" of the transfer of such rules, and shall place the transferred rules under the Administrative Code section of the Attorney General. Such rules shall continue in force and effect as rules of the Office of the Attorney General from and after July 1, 2008, and any amendment, repeal or addition to the transferred rules shall be under the jurisdiction of the Attorney General. The Attorney General shall adopt and promulgate rules to implement this program, as applicable.

K. Beginning July 1, 2008, the Director of the Address Confidentiality Program shall cease to be a position within the Office of the Secretary of State. All unexpended funds, property, records, personnel, and outstanding financial obligations and encumbrances related to the position and the Office of Address Confidentiality Program with the Office of the Secretary of State shall be transferred to the Office of the Attorney General. All personnel shall retain their employment position and status as unclassified employees, any leave, sick and annual time earned, and any retirement and longevity benefits which have accrued during tenure with the Office of the Secretary of State.

Added by Laws 2002, c. 415, § 1, eff. Nov. 1, 2002. Amended by Laws 2008, c. 66, § 1, eff. July 1, 2008.

NOTE: Editorially renumbered from § 60.13 of this title to avoid a duplication in numbering.

§22-60.15. Repealed by Laws 2010, c. 135, § 17, eff. Nov. 1, 2010, without reference to amendment by Laws 2010, c. 116, § 5, eff. Nov. 1, 2010. That text would have read as follows:

> Upon the preliminary investigation of any crime involving domestic abuse, rape, forcible sodomy or stalking, it shall be the duty of the first peace officer who interviews the victim of the domestic abuse, rape, forcible sodomy or stalking to inform the victim of the twenty-four-hour statewide telephone communication service established by Section 18p-5 of Title 74 of the Oklahoma Statutes and to give notice to the victim of certain rights. The notice shall consist of handing such victim the following statement:

"As a victim of domestic abuse, rape, forcible sodomy or stalking you have certain rights. These rights are as follows:

1. The right to request that charges be pressed against your assailant;

2. The right to request protection from any harm or threat of harm arising out of your cooperation with law enforcement and prosecution efforts as far as facilities are available and to be provided with information on the level of protection available;

3. The right to be informed of financial assistance and other social services available as a result of being a victim, including information on how to apply for the assistance and services; and

4. The right to file a petition for a protective order or, when the domestic abuse occurs when the court is not open for business, to request an emergency temporary protective order."

§22-60.16. Domestic abuse victims not to be discouraged from pressing charges - Warrantless arrests of certain persons - Emergency temporary order of protection.

A. A peace officer shall not discourage a victim of domestic abuse from pressing charges against the assailant of the victim.

B. 1. A peace officer may arrest without a warrant a person anywhere, including a place of residence, if the peace officer has probable cause to believe the person within the preceding seventy-two (72) hours has committed an act of domestic abuse as defined by Section 60.1 of this title, although the assault did not take place in the presence of the peace officer. A peace officer may not arrest a person pursuant to this section without first observing a recent physical injury to, or an impairment of the physical condition of, the alleged victim.

2. An arrest, when made pursuant to this section, shall be based on an investigation by the peace officer of the circumstances surrounding the incident, past history of violence between the parties, statements of any children present in the residence, and any other relevant factors. A determination by the peace officer shall be made pursuant to the investigation as to which party is the dominant aggressor in the situation. A peace officer may arrest the dominant aggressor.

C. When the court is not open for business, the victim of domestic abuse may request a petition for an emergency temporary order of protection. The peace officer making the preliminary investigation shall:

1. Provide the victim with a petition for an emergency temporary order of protection and, if necessary, assist the victim in completing the petition form. The petition shall be in substantially the same form as provided by Section 60.2 of this title for a petition for protective order;

2. Immediately notify, by telephone or otherwise, a judge of the district court of the request for an emergency temporary order of protection and describe the circumstances. The judge shall inform

the peace officer of the decision to approve or disapprove the emergency temporary order;

3. Inform the victim whether the judge has approved or disapproved the emergency temporary order. If an emergency temporary order has been approved, the officer shall provide the victim, or a responsible adult if the victim is a minor child or an incompetent person, with a copy of the petition and a written statement signed by the officer attesting that the judge has approved the emergency temporary order of protection and notify the victim that the emergency temporary order shall be effective only until the close of business on the next day that the court is open for business;

4. Notify the person subject to the emergency temporary protection order of the issuance and conditions of the order. Notification pursuant to this paragraph may be made personally by the officer or in writing. A copy of the petition and the statement of the officer attesting to the order of the judge shall be made available to such person; and

5. File a copy of the petition and the statement of the officer with the district court of the county immediately upon the opening of the court on the next day the court is open for business.

D. The forms utilized by law enforcement agencies in carrying out the provisions of this section may be substantially similar to those used under Section 60.2 of this title.

Added by Laws 2002, c. 466, § 6, emerg. eff. June 5, 2002. Amended by Laws 2004, c. 516, § 3, eff. July 1, 2005.

NOTE: Editorially renumbered from § 60.14 of Title 22 to avoid a duplication in numbering.

§22-60.17. Consideration of certain victims' safety prior to release of defendant on bond - Emergency protective and restraining orders - GPS monitoring.

The court shall consider the safety of any and all alleged victims of domestic violence, stalking, harassment, sexual assault, or forcible sodomy where the defendant is alleged to have violated a protective order, committed domestic assault and battery, stalked, sexually assaulted, or forcibly sodomized the alleged victim or victims prior to the release of the alleged defendant from custody on bond. The court, after consideration and to ensure the safety of the alleged victim or victims, may issue an emergency protective order pursuant to the Protection from Domestic Abuse Act. The court may also issue to the alleged victim or victims an order restraining the alleged defendant from any activity or action from which they may be restrained under the Protection from Domestic Abuse Act. The court shall not consider a "no contact order as condition of bond" as a factor when determining whether the petitioner is eligible for relief. The protective order shall remain in effect until either a plea has been accepted, sentencing has occurred in the case, the case

has been dismissed, or until further order of the court dismissing the protective order. In conjunction with any protective order or restraining order authorized by this section, the court may order the defendant to use an active, real-time, twenty-four-hour Global Positioning System (GPS) monitoring device for such term as the court deems appropriate. Upon application of the victim, the court may authorize the victim to monitor the location of the defendant. Such monitoring by the victim shall be limited to the ability of the victim to make computer or cellular inquiries to determine if the defendant is within a specified distance of locations, excluding the residence or workplace of the defendant, or to receive a computer- or a cellular-generated signal if the defendant comes within a specified distance of the victim. The court shall conduct an annual review of the monitoring order to determine if such order to monitor the location of the defendant is still necessary. Before the court orders the use of a GPS device, the court shall find that the defendant has a history that demonstrates an intent to commit violence against the victim, including, but not limited to, prior conviction for an offense under the Protection from Domestic Abuse Act or any other violent offense, or any other evidence that shows by a preponderance of the evidence that the defendant is likely to commit violence against the victim. The court may further order the defendant to pay costs and expenses related to the GPS device and monitoring.
Added by Laws 2004, c. 516, § 4, eff. July 1, 2005. Amended by Laws 2008, c. 114, § 2, eff. Nov. 1, 2008; Laws 2010, c. 346, § 1, eff. Nov. 1, 2010; Laws 2019, c. 113, § 6, eff. Nov. 1, 2019.

§22-60.18. Expungement of victim protective orders.

A. Persons authorized to file a motion for expungement of victim protective orders (VPOs) issued pursuant to the Protection from Domestic Abuse Act in this state must be within one of the following categories:

1. An ex parte order was issued to the plaintiff but later terminated due to dismissal of the petition before the full hearing, or denial of the petition upon full hearing, or failure of the plaintiff to appear for full hearing, and at least ninety (90) days have passed since the date set for full hearing;

2. The plaintiff filed an application for a victim protective order and failed to appear for the full hearing and at least ninety (90) days have passed since the date last set by the court for the full hearing, including the last date set for any continuance, postponement or rescheduling of the hearing;

3. The plaintiff or defendant has had the order vacated and three (3) years have passed since the order to vacate was entered; or

4. The plaintiff or defendant is deceased.

B. For purposes of this section:

1. "Expungement" means the sealing of victim protective order (VPO) court records from public inspection, but not from law enforcement agencies, the court or the district attorney;

2. "Plaintiff" means the person or persons who sought the original victim protective order (VPO) for cause; and

3. "Defendant" means the person or persons to whom the victim protective order (VPO) was directed.

C. 1. Any person qualified under subsection A of this section may petition the district court of the district in which the protective order pertaining to the person is located for the expungement and sealing of the court records from public inspection. The face of the petition shall state whether the defendant in the protective order has been convicted of any violation of the protective order and whether any prosecution or complaint is pending in this state or any other state for a violation or alleged violation of the protective order that is sought to be expunged. The petition shall further state the authority pursuant to subsection A of this section for eligibility for requesting the expungement. The other party to the protective order shall be mailed a copy of the petition by certified mail within ten (10) days of filing the petition. A written answer or objection may be filed within thirty (30) days of receiving the notice and petition.

2. Upon the filing of a petition, the court shall set a date for a hearing and shall provide at least a thirty-day notice of the hearing to all parties to the protective order, the district attorney, and any other person or agency whom the court has reason to believe may have relevant information related to the sealing of the victim protective order (VPO) court record.

3. Without objection from the other party to the victim protective order (VPO) or upon a finding that the harm to the privacy of the person in interest or dangers of unwarranted adverse consequences outweigh the public and safety interests of the parties to the protective order in retaining the records, the court may order the court record, or any part thereof, to be sealed from public inspection. Any order entered pursuant to this section shall not limit or restrict any law enforcement agency, the district attorney or the court from accessing said records without the necessity of a court order. Any order entered pursuant to this subsection may be appealed by any party to the protective order or by the district attorney to the Oklahoma Supreme Court in accordance with the rules of the Oklahoma Supreme Court.

4. Upon the entry of an order to expunge and seal from public inspection a victim protective order (VPO) court record, or any part thereof, the subject official actions shall be deemed never to have occurred, and the persons in interest and the public may properly reply, upon any inquiry in the matter, that no such action ever occurred and that no such record exists with respect to the persons.

5. Inspection of the protective order court records included in the expungement order issued pursuant to this section may thereafter be permitted only upon petition by the persons in interest who are the subjects of the records, or without petition by the district attorney or a law enforcement agency in the due course of investigation of a crime.

6. Employers, educational institutions, state and local government agencies, officials, and employees shall not require, in any application or interview or otherwise, an applicant to disclose any information contained in sealed protective order court records. An applicant need not, in answer to any question concerning the records, provide information that has been sealed, including any reference to or information concerning the sealed information and may state that no such action has ever occurred. The application may not be denied solely because of the refusal of the applicant to disclose protective order court records information that has been sealed.

7. The provisions of this section shall apply to all protective order court records existing in the district courts of this state on, before and after the effective date of this section.

8. Nothing in this section shall be construed to authorize the physical destruction of any court records, except as otherwise provided by law for records no longer required to be maintained by the court.

9. For the purposes of this section, sealed materials which are recorded in the same document as unsealed material may be recorded in a separate document, and sealed, then obliterated in the original document.

10. For the purposes of this act, district court index reference of sealed material shall be destroyed, removed or obliterated.

11. Any record ordered to be sealed pursuant to this section may be obliterated or destroyed at the end of the ten-year period.

12. Nothing herein shall prohibit the introduction of evidence regarding actions sealed pursuant to the provisions of this section at any hearing or trial for purposes of impeaching the credibility of a witness or as evidence of character testimony pursuant to Section 2608 of Title 12 of the Oklahoma Statutes.

Added by Laws 2005, c. 113, § 1, eff. Nov. 1, 2005.

§22-60.19. Emergency protective order - Confidentiality.

In proceedings before the court pursuant to Title 10A of the Oklahoma Statutes in which a child is alleged to be deprived, the court, after consideration and to ensure the safety of any child brought into state custody, may issue against the alleged perpetrator of abuse an emergency protective order pursuant to the Protection from Domestic Abuse Act at the emergency custody hearing or after a petition has been filed alleging that a child has been physically or sexually abused. The protective order shall remain in effect until

the case has been dismissed or until further order of the court. All emergency protective orders issued by the court pursuant to this section shall remain confidential and shall not be open to the general public; provided, however, copies of the emergency protective order shall be provided to any law enforcement agency designated by the court to effect service upon the defendant.
Added by Laws 2011, c. 102, § 2, eff. Nov. 1, 2011.

§22-60.20. Domestic violence, substance abuse, addiction and mental health training.

The Administrative Office of the Courts shall provide annual domestic violence, substance abuse, addiction and mental health educational training for members of the judiciary. Subject to available funding, curriculum for training required under this section shall include, but not be limited to:

1. Dynamics of domestic violence;

2. The impact of domestic violence on victims and their children including trauma and the neurobiology of trauma;

3. Identifying dominant aggressor;

4. Tactics and behavior of batterers;

5. Victim protection orders and full faith and credit under the Violence Against Women Act of 1994;

6. Rights of victims; and

7. Evidence-based practices regarding behavioral health and treatment of those with substance abuse or mental health needs.

Added by Laws 2013, c. 198, § 4, eff. Nov. 1, 2013. Amended by Laws 2017, c. 351, § 3, eff. Nov. 1, 2017.

§22-60.21. Short title.

This act shall be known and may be cited as the "Uniform Interstate Enforcement of Domestic Violence Protection Orders Act".
Added by Laws 2008, c. 76, § 1, eff. Nov. 1, 2008.

§22-60.22. Definitions.

As used in the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act:

1. "Foreign protection order" means a protection order issued by a tribunal of another state;

2. "Issuing state" means the state whose tribunal issues a protection order;

3. "Mutual foreign protection order" means a foreign protection order that includes provisions in favor of both the protected individual seeking enforcement of the order and the respondent;

4. "Protected individual" means an individual protected by a protection order;

5. "Protection order" means an injunction or other order, issued by a tribunal under the domestic violence, family violence, or anti-

stalking laws of the issuing state, to prevent an individual from engaging in violent or threatening acts against, harassment of, contact or communication with, or physical proximity to, another individual;

6. "Respondent" means the individual against whom enforcement of a protection order is sought;

7. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band that has jurisdiction to issue protection orders; and

8. "Tribunal" means a court, agency, or other entity authorized by law to issue or modify a protection order.

Added by Laws 2008, c. 76, § 2, eff. Nov. 1, 2008.

§22-60.23. Judicial enforcement of foreign protection order.

A. A person authorized by the law of this state to seek enforcement of a protection order may seek enforcement of a valid foreign protection order in a tribunal of this state. The tribunal shall enforce the terms of the order, including terms that provide relief that a tribunal of this state would lack power to provide but for this section. The tribunal shall enforce the order, whether the order was obtained by independent action or in another proceeding, if it is an order issued in response to a complaint, petition, or motion filed by or on behalf of an individual seeking protection. In a proceeding to enforce a foreign protection order, the tribunal shall follow the procedures of this state for the enforcement of protection orders.

B. A tribunal of this state may not enforce a foreign protection order issued by a tribunal of a state that does not recognize the standing of a protected individual to seek enforcement of the order.

C. A tribunal of this state shall enforce the provisions of a valid foreign protection order which govern custody and visitation, if the order was issued in accordance with the jurisdictional requirements governing the issuance of custody and visitation orders in the issuing state.

D. A foreign protection order is valid if it:

1. Identifies the protected individual and the respondent;

2. Is currently in effect;

3. Was issued by a tribunal that had jurisdiction over the parties and subject matter under the law of the issuing state; and

4. Was issued after the respondent was given reasonable notice and had an opportunity to be heard before the tribunal issued the order or, in the case of an order ex parte, the respondent was given notice and has had or will have an opportunity to be heard within a reasonable time after the order was issued, in a manner consistent with the rights of the respondent to due process.

E. A foreign protection order valid on its face is prima facie evidence of its validity.

F. Absence of any of the criteria for validity of a foreign protection order is an affirmative defense in an action seeking enforcement of the order.

G. A tribunal of this state may enforce provisions of a mutual foreign protection order which favor a respondent only if:

1. The respondent filed a written pleading seeking a protection order from the tribunal of the issuing state; and

2. The tribunal of the issuing state made specific findings in favor of the respondent.

Added by Laws 2008, c. 76, § 3, eff. Nov. 1, 2008.

§22-60.24. Nonjudicial enforcement of foreign protection order.

A. A law enforcement officer of this state, upon determining that there is probable cause to believe that a valid foreign protection order exists and that the order has been violated, shall enforce the order as if it were the order of a tribunal of this state. Presentation of a protection order that identifies both the protected individual and the respondent and, on its face, is currently in effect constitutes probable cause to believe that a valid foreign protection order exists. For the purposes of this section, the protection order may be inscribed on a tangible medium or may have been stored in an electronic or other medium if it is retrievable in perceivable form. Presentation of a certified copy of a protection order is not required for enforcement.

B. If a foreign protection order is not presented, a law enforcement officer of this state may consider other information in determining whether there is probable cause to believe that a valid foreign protection order exists.

C. If a law enforcement officer of this state determines that an otherwise valid foreign protection order cannot be enforced because the respondent has not been notified or served with the order, the officer shall inform the respondent of the order, make a reasonable effort to serve the order upon the respondent, and allow the respondent a reasonable opportunity to comply with the order before enforcing the order.

D. Registration or filing of an order in this state is not required for the enforcement of a valid foreign protection order pursuant to this act.

Added by Laws 2008, c. 76, § 4, eff. Nov. 1, 2008.

§22-60.25. Registration of foreign orders - Certified copy - Inaccurate orders - Affidavits - Fee.

A. Any individual may register a foreign protection order in this state. To register a foreign protection order, an individual shall:

1. Present a certified copy of the order to the Secretary of State; or

2. Present a certified copy of the order to a law enforcement officer and request that the order be registered with the Secretary of State.

B. Upon receipt of a foreign protection order, the Secretary of State shall register the order in accordance with this section. After the order is registered, the Secretary of State shall furnish to the individual registering the order a certified copy of the registered order.

C. The Secretary of State shall register an order upon presentation of a copy of a protection order which has been certified by the issuing state. A registered foreign protection order that is inaccurate or is not currently in effect must be corrected or removed from the registry in accordance with the law of this state.

D. An individual registering a foreign protection order shall file an affidavit by the protected individual stating that, to the best of the protected individual's knowledge, the order is currently in effect.

E. A foreign protection order registered under this act may be entered in any existing state or federal registry of protection orders, in accordance with applicable law.

F. A fee may not be charged for the registration of a foreign protection order.

Added by Laws 2008, c. 76, § 5, eff. Nov. 1, 2008.

§22-60.26. Immunity from liability.

This state or a local governmental agency, or a law enforcement officer, prosecuting attorney, clerk of court, or any state or local governmental official acting in an official capacity, is immune from civil and criminal liability for an act or omission arising out of the registration or enforcement of a foreign protection order or the detention or arrest of an alleged violator of a foreign protection order if the act or omission was done in good faith in an effort to comply with this act.

Added by Laws 2008, c. 76, § 6, eff. Nov. 1, 2008.

§22-60.27. Remedies.

A protected individual who pursues remedies under this act is not precluded from pursuing other legal or equitable remedies against the respondent.

Added by Laws 2008, c. 76, § 7, eff. Nov. 1, 2008.

§22-60.28. Uniformity of application and construction.

In applying and construing this act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Added by Laws 2008, c. 76, § 8, eff. Nov. 1, 2008.

§22-60.29. Application to orders issued before November 1, 2008.

This act applies to protection orders issued before November 1, 2008, and to continuing actions for enforcement of foreign protection orders commenced before November 1, 2008. A request for enforcement of a foreign protection order made on or after November 1, 2008, for violations of a foreign protection order occurring before November 1, 2008, is governed by this act.

Added by Laws 2008, c. 76, § 9, eff. Nov. 1, 2008.

§22-60.30. Integrated domestic violence docket pilot program.

Beginning on January 1, 2016, the Administrative Office of the Courts shall administer a five-year pilot program in any county with a population exceeding five hundred thousand (500,000), which may consist of implementation of an Integrated Domestic Violence Docket to combine, where appropriate, proceedings related to divorce, child custody, domestic violence, protective orders, and criminal and juvenile court cases.

Added by Laws 2015, c. 389, § 1, eff. Nov. 1, 2015.

§22-60.31. Family justice centers.

Beginning on January 1, 2016, any governmental entity in a county that receives sufficient funds to implement such program may establish a family justice center to assist victims of domestic violence, sexual assault, elder or dependent adult abuse and stalking to ensure that victims of abuse are able to access all needed services in one location in order to enhance victim safety and increase offender accountability. Family justice centers shall comply with all applicable laws and regulations of this state, and may include, but not be limited to, the participation of law enforcement, the prosecuting authority, and an Attorney General certified victim services agency.

Added by Laws 2015, c. 389, § 2, eff. Nov. 1, 2015.

§22-61. Domestic violence court program.

A. Subject to the availability of funds, any district or municipal court of record of this state may establish and maintain a domestic violence court program pursuant to the provisions of this section.

B. For purposes of this section, "domestic violence court" means a specialized judicial process for domestic matters both civil and criminal in nature that arise out of the same family or domestic circumstance.

C. The presiding judge of a district or municipal court of record may appoint an individual judge to preside over related criminal, family and matrimonial matters that arise in the context of

domestic violence. Criminal domestic violence charges, protective orders and any actions for divorce, separate maintenance, guardianship, adoption or any other proceeding involving custody or visitation between the same parties may be presented to the domestic violence court.

D. The Administrative Office of the Courts may promulgate rules, procedures and forms necessary to implement a domestic violence court to ensure statewide uniformity.

Added by Laws 2017, c. 257, § 2, eff. Nov. 1, 2017.

§22-70. Use of Force for the Protection of the Unborn Act.

This act may be known and shall be cited as the "Use of Force for the Protection of the Unborn Act".

Added by Laws 2009, c. 61, § 1, eff. Nov. 1, 2009.

§22-71. Legislative findings.

The Legislature finds that:

1. Violence and abuse are often higher during pregnancy than during any other time in a woman’s lifetime;

2. Women are more likely to suffer increased abuse as a result of unintended pregnancies;

3. Younger women are at a higher risk for pregnancy-associated homicide;

4. A pregnant or recently pregnant woman is more likely to be a victim of homicide than to die of any other cause;

5. Homicide and other violent crimes are the leading causes of death for women of reproductive age;

6. Husbands, ex-husbands or boyfriends are often the perpetrators of pregnancy-associated homicide or violence;

7. Moreover, when husbands, ex-husbands or boyfriends are involved, the violence is often directed at the unborn child and/or intended to end or jeopardize the pregnancy; and

8. Violence against a pregnant woman puts the life and bodily integrity of both the pregnant woman and the unborn child at risk.

Added by Laws 2009, c. 61, § 2, eff. Nov. 1, 2009.

§22-72. Definitions.

As used in this section:

1. "Another" means a person other than the pregnant woman;

2. "Deadly force" means force which, under the circumstances in which it is used, is readily capable of causing death or serious physical harm;

3. "Force" means violence, compulsion, or constraint exerted upon or against another;

4. "Embryo" means a human embryo as defined in Section 1-728.1 of Title 63 of the Oklahoma Statutes;

5. "Pregnant" means the female reproductive condition of having an unborn child in the woman's body;

6. "Unborn child" means the offspring of human beings from conception until birth; and

7. "Unlawful force" means force which is employed without the consent of the pregnant woman and which constitutes an offense under the criminal laws of this state or an actionable tort.

Added by Laws 2009, c. 61, § 3, eff. Nov. 1, 2009.

§22-73. Deadly force to protect unborn justified - Circumstances.

A. A pregnant woman is justified in using force or deadly force against another to protect her unborn child if:

1. Under the circumstances as the pregnant woman reasonably believes them to be, she would be justified in using force or deadly force to protect herself against the unlawful force or unlawful deadly force she reasonably believes to be threatening her unborn child; and

2. She reasonably believes that her intervention and use of force or deadly force are immediately necessary to protect her unborn child.

B. This affirmative defense to criminal liability does not apply to:

1. Acts committed by anyone other than the pregnant woman;

2. Acts where the pregnant woman would be obligated to retreat, to surrender the possession of a thing, or to comply with a demand before using force in self-defense. However, the pregnant woman is not obligated to retreat before using force or deadly force to protect her unborn child, unless she knows that she can thereby secure the complete safety of her unborn child; or

3. The defense of human embryos existing outside of a woman's body.

Added by Laws 2009, c. 61, § 4, eff. Nov. 1, 2009.

§22-91. Officer may command assistance.

When a sheriff or other public officer authorized to execute process, finds, or has reason to apprehend that resistance will be made to the execution of the process, he may command as many male inhabitants of his county as he may think proper, and may in manner and form as provided by law, and not otherwise, call any military company or companies in the county, armed and equipped, to assist him in overcoming the resistance, and if necessary, in seizing, arresting and confining the resisters and their aiders and abettors, to be punished according to law.

R.L.1910, § 5580.

§22-92. Officer must report names of resisters.

The officer must certify to the court from which the process is issued, the names of the resisters and their aiders and abettors, to the end that they may be proceeded against for contempt.
R.L.1910, § 5581.

§22-93. Refusal to assist officer a misdemeanor.

Every person commanded by a public officer to assist him in the execution of a process, as provided in Section 5580, who, without lawful cause, refuses or neglects to obey the commands, is guilty of a misdemeanor.
R.L.1910, § 5582.

§22-94. Assistance from other counties.

If it appears to the Governor that the power of the county is not sufficient to enable the sheriff to execute process delivered to him, or to suppress riots and to preserve the peace, he must, on the application of the sheriff, or the judge, of any court of record of such county, order such a force from any other county or counties as is necessary, and all persons so ordered or summoned by the Governor or acting Governor, are required to attend and act; and any such persons who, without lawful cause, refuse or neglect to obey the command, are guilty of a misdemeanor.
R.L.1910, § 5583.

§22-95. Governor to furnish military force, when.

Under the facts and circumstances mentioned in the last section, and when the civil power of the county is not deemed sufficient, it shall be the duty of the Governor to furnish a military force sufficient to execute the laws and to prevent resistance thereto, to suppress riots, execute process and preserve the peace.
R.L.1910, § 5584.

§22-101. Unlawful assemblage.

Where any number of persons, whether armed or not, are unlawfully or riotously assembled, the sheriff and his deputies, the officials governing the city or town, or the justices of the peace and marshals and constables and police thereof, or any of them, must go among the persons assembled, or as near to them as possible, and command them in the name of the state, immediately to disperse.
R.L.1910, § 5585.

§22-102. Proceedings if assembly does not disperse - Commanding aid of others.

If the persons assembled do not immediately disperse, the magistrates and officers must arrest them or cause them to be arrested, that they may be punished according to law, and for that

purpose may command the aid of all persons present or within the county.
R.L.1910, § 5586.

§22-103. Refusal to assist.

If a person so commanded to aid the magistrates or officers neglect to do so he is deemed one of the rioters and is punishable accordingly.
R.L.1910, § 5587.

§22-104. Neglect of officer respecting unlawful assembly a misdemeanor.

If a magistrate or officer having notice of an unlawful or riotous assembly mentioned in Section 5585 neglect to proceed to the place of the assembly, or as near thereto as he can with safety, and to exercise the authority with which he is invested for suppressing the same and arresting the offenders, he is guilty of a misdemeanor.
R.L.1910, § 5588.

§22-105. Officers may disperse assembly and arrest offenders - Commanding aid.

If the persons assembled and commanded to disperse do not immediately disperse, any two of the magistrates or officers mentioned in Section 5585, may command the aid of a sufficient number of persons, and may proceed in such manner as in their judgment is necessary, to disperse the assembly and arrest the offenders.
R.L.1910, § 5589.

§22-106. Precautions before endangering life.

Every endeavor must be used, both by the magistrate and civil officers, and by the officer commanding the troops, which can be made consistently with the preservation of life, to induce or force the rioters to disperse before an attack is made upon them by which their lives may be endangered.
R.L.1910, § 5590.

§22-107. Offenses during riot or insurrection.

A person who, after the publication of a proclamation by the Governor or acting Governor, or who, after lawful notice as aforesaid to disperse and retire, resists or aids in resisting the execution of process in a county declared to be in a state of riot or insurrection, or who aids or attempts the rescue or escape of another from lawful custody or confinement, or who resists or aids in resisting a force ordered out by the Governor or any civil officer as aforesaid, to quell or suppress an insurrection or riot, is guilty of a felony, and is punishable by imprisonment in the state prison for not less than two (2) years.

R.L. 1910, § 5591. Amended by Laws 1997, c. 133, § 436, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 320, eff. July 1, 1999.
NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 436 from July 1, 1998, to July 1, 1999.

§22-111. Creation - Staff.

Each district attorney shall create within his office a Bogus Check Restitution Program and assign sufficient staff and resources for the efficient operation of said program.
Added by Laws 1982, c. 93, § 1, operative Oct. 1, 1982.

§22-112. Referral of complaints - Guidelines.

A. Referral of a bogus check complaint to the Bogus Check Restitution Program shall be at the discretion of the district attorney. This act shall not limit the power of the district attorney to prosecute bogus check complaints.

B. Upon receipt of a bogus check complaint, the district attorney shall determine if the complaint is one which is appropriate to be referred to the Bogus Check Restitution Program.

C. In determining whether to refer a case to the Bogus Check Restitution Program, the district attorney shall consider the following guidelines:

1. The amount of the bogus check;

2. If there is a prior criminal record of the defendant;

3. The number of bogus check complaints against the defendant previously received by the district attorney;

4. Whether or not there are other bogus check complaints currently pending against the defendant; and

5. The strength of the evidence of intent to defraud the victim.
Added by Laws 1982, c. 93, § 2, operative Oct. 1, 1982.

§22-113. Notice of complaint.

A. Upon referral of a complaint to the Bogus Check Restitution Program, a notice of the complaint shall be forwarded by mail to the defendant.

B. The notice shall contain:

1. The date and amount of the check;

2. The name of the payee;

3. The date before which the defendant must contact the office of the district attorney concerning the complaint; and

4. A statement of the penalty for obtaining money, merchandise or services by means of a false and bogus check.
Added by Laws 1982, c. 93, § 3, operative Oct. 1, 1982.

§22-114. Restitution agreements.

A. The district attorney may enter into a written restitution agreement with the defendant to defer prosecution on a false or bogus

check for a period to be determined by the district attorney, not to exceed three (3) years, pending restitution being made to the victim of the bogus check as provided in this section.

B. Each restitution agreement shall include a provision requiring the defendant to pay to the victim a Twenty-five Dollar ($25.00) fee and to the district attorney a fee equal to the amount which would have been assessed as court costs upon filing of the case in district court plus Twenty-five Dollars ($25.00) for each check covered by the restitution agreement; provided, every check in an amount of Fifty Dollars ($50.00) or more shall require a separate fee to be paid to the district attorney in an amount equal to the amount which would be assessed as court costs for the filing of a felony case in district court plus Twenty-five Dollars ($25.00). This money shall be deposited in a special fund with the county treasurer to be known as the "Bogus Check Restitution Program Fund". This fund shall be used by the district attorney to defray any lawful expense of the district attorney's office. The district attorney shall keep records of all monies deposited to and disbursed from this fund. The records of the fund shall be audited at the same time the records of county funds are audited.

C. Restitution paid by the defendant to the victim shall include the face amount of the check plus any charges the victim may have been required to pay to a bank as the result of having received the bogus check. If, instead of paying restitution directly to the victim, the defendant delivers restitution funds to the office of the district attorney, the district attorney shall deposit such funds in a depository account in the office of the county treasurer to be disbursed to the victim by a warrant signed by the district attorney or a member of the staff assigned to the Bogus Check Restitution Program. The district attorney shall keep full records of all restitution monies received and disbursed. These records shall be audited at the same time the county funds are audited.

D. Restitution paid by the defendant to the Oklahoma Tax Commission shall include the face amount of the check plus the administrative service fee authorized pursuant to Section 218 of Title 68 of the Oklahoma Statutes. If the defendant delivers such restitution funds to the office of the district attorney instead of paying restitution directly to the Tax Commission, the district attorney shall deposit such funds in a depository account in the office of the county treasurer to be disbursed to the Tax Commission by warrant signed by the district attorney or a member of the staff assigned to the Bogus Check Restitution Program or shall transmit the restitution funds directly to the Tax Commission.

E. If the defendant fails to comply with the restitution agreement, the district attorney may file an information and proceed with the prosecution of the defendant as provided by law.

F. The victim may authorize an administrative service fee to be paid by such victim to the district attorney or other third-party vendor to facilitate electronic transfer of checks to the Bogus Check Restitution Program.

G. The district attorney is authorized to contract for a per-item fee with a third-party vendor to facilitate electronic transfer of checks into the Bogus Check Restitution Program.

Added by Laws 1982, c. 93, § 4, operative Oct. 1, 1982. Amended by Laws 1986, c. 218, § 1, emerg. eff. June 9, 1986; Laws 2001, c. 18, § 1, eff. July 1, 2001; Laws 2001, c. 437, § 15, eff. July 1, 2001; Laws 2006, c. 293, § 1, eff. July 1, 2006; Laws 2007, c. 358, § 3, eff. July 1, 2007.

NOTE: Laws 2007, c. 199, § 2 repealed by Laws 2008, c. 3, § 18, emerg. eff. Feb. 28, 2008.

§22-115. District attorney's staff to perform certain duties.

Members of the district attorney's staff shall perform duties in connection with the Bogus Check Restitution Program in addition to any other duties which are assigned by the district attorney.

Added by Laws 1982, c. 93, § 5, operative Oct. 1, 1982.

§22-116. Annual reports.

A. District attorneys shall prepare and submit an annual report to the District Attorneys Council showing total deposits and total expenditures in the Bogus Check Restitution Program.

B. By September 15 of each year, the District Attorneys Council shall publish an annual report for the previous fiscal year of the Bogus Check Restitution Program. A copy of the report shall be distributed to the President Pro Tempore of the Senate and the Speaker of the Oklahoma House of Representatives and the chairmen of the House and Senate Appropriations Committees. Each district attorney shall submit information requested by the District Attorneys Council regarding the Bogus Check Restitution Program. This report shall include the number of checks processed and the total dollar amount of such checks, the number of checks for which some restitution was made and the total amount of the restitution, the total amount of fees collected, the total cost of the program, and such other information as required by the District Attorneys Council. The report shall provide totals by county and district.

Added by Laws 1988, c. 254, § 11, operative July 1, 1988. Amended by Laws 1994, c. 295, § 4, eff. July 1, 1994.

§22-121. Offenses commenced outside and consummated within the state.

When the commission of a public offense, commenced without this state, is consummated within its boundaries, the defendant is liable to punishment therefor in this state, though the defendant were out

of this state at the time of the commission of the offense charged if the defendant consummated it in this state through the intervention of an innocent or guilty agent, or by any other means proceeding directly from the defendant, including the use of any technology, telephone, computer, or cyberspace device or application; and in such case, the jurisdiction is in the county in which the offense is consummated.
R.L.1910, § 5609. Amended by Laws 2002, c. 97, § 1, emerg. eff. April 17, 2002.

§22-122. Jurisdiction in case of death from duel outside state.
When an inhabitant or resident of this state, by previous appointment or engagement, fights a duel, or is concerned as second therein, out of the jurisdiction of this state, and in the duel a wound is inflicted upon a person, whereof he dies in this state, the jurisdiction of the offense is in the county where the death happened.
R.L.1910, § 5610.

§22-123. Evasion of statutes relative to dueling and challenges, jurisdiction.
When an inhabitant of this state shall have left the same for the purpose of evading the operation of the provisions of the statutes relating to dueling and challenges to fight, with the intent or for the purpose of doing any of the acts prohibited therein, the jurisdiction is in the county of which the offender was an inhabitant when the offense was committed, or in any county in which, in the opinion of the Governor, the evidence can be most conveniently obtained and produced, to be designated by him by written appointment, filed in the office of the clerk of the court of that county.
R.L.1910, § 5611.

§22-124. Offense committed in two counties.
When a public offense is committed, partly in one county and partly in another county, or the acts or effects thereof, constituting or requisite to the offense, occur in two or more counties, the jurisdiction is in either county.
R.L.1910, § 5612.

§22-125. Offense committed near boundary of county.
When a public offense is committed on the boundary of two or more counties, or within five hundred (500) yards thereof, the jurisdiction is in either county.
R.L.1910, § 5613.

§22-125.1. Venue for enforcement of Section 425 of Title 21.

Venue for criminal actions to enforce the provisions of Section 2 of this act, including criminal actions with respect to each of the alleged offenses included within a pattern of criminal offenses, as defined in Section 2 of this act, that have allegedly been committed, attempted or conspired to be committed by a person or persons, shall be in any county in which at least one alleged criminal offense has occurred that constitutes part of the alleged pattern of criminal offenses, it being the intent of this section that one district court may have jurisdiction over all the conduct, persons and property which are part of, or are directly related to, each and all of the alleged criminal offenses forming part of the alleged pattern of criminal offenses. It is discretionary, not mandatory, to bring all criminal actions in one county when an alleged pattern of criminal offenses involves two or more counties.
Added by Laws 2004, c. 292, § 1, emerg. eff. May 11, 2004.

§22-126. Kidnapping, enticing away children and similar offenses, jurisdiction.

The jurisdiction of an indictment or information:

1. For forcibly and without lawful authority seizing and confining another, or inveigling or kidnapping him, with intent, against his will, to cause him to be secretly confined or imprisoned in this state, or to be sent out of the state, or from one county to another; or,

2. For decoying or taking or enticing away a child under the age of twelve (12) years, with intent to detain and conceal it from its parents, guardian, or other person having lawful charge of the child; or,

3. For the inveigling, enticing, or taking away an unmarried female of previous chaste character, under the age of twenty-one (21) years for the purpose of prostitution; or,

4. For taking away any female under the age of sixteen (16) years from her father, mother, guardian or other person having the legal charge of her person without their consent either for the purpose of concubinage or prostitution,

Is in any county in which the offense is committed or into or out of which the person upon whom the offense was committed, may, in the commission of the offense, have been brought or in which an act was done by the defendant in instigating, procuring, promoting, aiding or in being an accessory to the commission of the offense, or in abetting the parties concerned therein.
R.L.1910, § 5614.

§22-128. Stolen property moved, jurisdiction.

When property taken in one county, by burglary, robbery, larceny, or embezzlement, has been brought into another, the jurisdiction of the offense is in either county. But if, before the beginning of the

trial of the defendant in the latter, he be indicted or information be filed against him in the former county, the sheriff of the latter must, upon demand, deliver him to the sheriff of the former county, upon being served with a certified copy of the indictment or information, and upon a receipt indorsed thereon by the sheriff of the former county, of the delivery of the body of the defendant, and is, on filing the copy of the indictment and the receipt, exonerated from all liability in respect to the custody of the defendant.
R.L.1910, § 5616.

§22-129. Accessory, jurisdiction in case of.

In the case of an accessory in the commission of a public offense, the jurisdiction is in the county where the offense of the accessory was committed, notwithstanding the principal offense was committed in another county.
R.L.1910, § 5617.

§22-130. Conviction or acquittal outside state or county a bar.

When an act charged as a public offense is within the jurisdiction of another territory, county or state, as well as this state, a conviction or acquittal thereof in the former is a bar to a prosecution therefor in this state.
R.L.1910, § 5618.

§22-131. Conviction or acquittal in one county as bar to prosecution in another.

When an offense is in the jurisdiction of two or more counties, a conviction or acquittal thereof in one county is a bar to a prosecution thereof in another.
R.L.1910, § 5619.

§22-132. Escape, jurisdiction of prosecution for.

The jurisdiction of a prosecution for escaping from prison is in any county of the state.
R.L.1910, § 5620.

§22-133. Stealing property in another state - Receiving such stolen property.

The jurisdiction of a prosecution for stealing in any state or county, or other territory, the property of another, or receiving it, knowing it to have been stolen, and bringing the same into this state, is in any county into or through which such stolen property has been brought.
R.L.1910, § 6136.

§22-134. Murder or manslaughter, jurisdiction in certain cases.

The jurisdiction of a prosecution for murder or manslaughter, when the injury which caused the death was inflicted in one county, and the party injured dies in another county, or out of the state, is in the county where the injury was inflicted.
R.L.1910, § 5622.

§22-135. Principal not present, jurisdiction.
The jurisdiction of a prosecution against a principal in the commission of a public offense, when such principal is not present at the commission of the public offense, is in the same county as it would be under this article, if he were so present and aiding and abetting therein.
R.L.1910, § 5623.

§22-136. Acceptance of plea of guilty or nolo contendere upon waiver of venue and consent thereto - Judgments.
If, in any criminal proceeding, the accused enters a plea of guilty or nolo contendere and waives his venue rights by express written waiver, and upon consent of the prosecuting attorneys of both the disposition county and the originating venue county, any judge in any district court is authorized to accept such plea for an offense committed in any county charged by complaint, indictment, information or other equivalent pleading, and may dispose of the offense or offenses set out in such pleadings. An exemplified copy of the judgment shall constitute a judgment on the merits in the case in the court or courts of the originating venue county or counties.
Added by Laws 1985, c. 20, § 1, eff. Nov. 1, 1985.

§22-151. No limitation of prosecutions for murder.
There is no limitation of the time within which a prosecution for murder must be commenced. It may be commenced at any time after the death of the person killed.
R.L.1910, § 5624; Laws 1935, p. 20, § 1; Laws 1943, p. 84, § 1.

§22-152. Statute of limitations.
A. Prosecutions for the crimes of bribery, embezzlement of public money, bonds, securities, assets or property of the state or any county, school district, municipality or other subdivision thereof, or of any misappropriation of public money, bonds, securities, assets or property of the state or any county, school district, municipality or other subdivision thereof, falsification of public records of the state or any county, school district, municipality or other subdivision thereof, and conspiracy to defraud the State of Oklahoma or any county, school district, municipality or other subdivision thereof in any manner or for any purpose shall be commenced within seven (7) years after the discovery of the crime; provided, however, prosecutions for the crimes of embezzlement or

misappropriation of public money, bonds, securities, assets or property of any school district, including those relating to student activity funds, or the crime of falsification of public records of any independent school district, the crime of criminal conspiracy, the crime of embezzlement pursuant to Sections 1451 through 1461 of Title 21 of the Oklahoma Statutes, the crime of False Personation or Identity Theft pursuant to Sections 1531 through 1533.3 of Title 21 of the Oklahoma Statutes, the financial exploitation of a vulnerable adult pursuant to Sections 843.1, 843.3 and 843.4 of Title 21 of the Oklahoma Statutes, or Medicaid fraud pursuant to Section 1005 of Title 56 of the Oklahoma Statutes, shall be commenced within five (5) years after the discovery of the crime.

B. Prosecutions for criminal violations of any state income tax laws shall be commenced within five (5) years after the commission of such violation.

C. 1. Prosecutions for sexual crimes against children, specifically rape or forcible sodomy, sodomy, lewd or indecent proposals or acts against children, involving minors in pornography pursuant to Section 886, 888, 1111, 1111.1, 1113, 1114, 1021.2, 1021.3, 1040.12a or 1123 of Title 21 of the Oklahoma Statutes, child abuse pursuant to Section 843.5 of Title 21 of the Oklahoma Statutes, and child trafficking pursuant to Section 866 of Title 21 of the Oklahoma Statutes shall be commenced by the forty-fifth birthday of the alleged victim. Prosecutions for such crimes committed against victims eighteen (18) years of age or older shall be commenced within twelve (12) years after the discovery of the crime.

2. However, prosecutions for the crimes listed in paragraph 1 of this subsection may be commenced at any time after the commission of the offense if:

a. physical evidence is collected and preserved that is capable of being tested to obtain a profile from deoxyribonucleic acid (DNA), and

b. the identity of the offender is subsequently established through the use of a DNA profile using evidence listed in subparagraph a of this paragraph.

A prosecution under this exception must be commenced within three (3) years from the date on which the identity of the suspect is established by DNA testing.

D. Prosecutions for criminal violations of any provision of the Oklahoma Wildlife Conservation Code shall be commenced within three (3) years after the commission of such offense.

E. Prosecutions for the crime of criminal fraud or workers' compensation fraud pursuant to Section 1541.1, 1541.2, 1662 or 1663 of Title 21 of the Oklahoma Statutes shall commence within three (3) years after the discovery of the crime, but in no event greater than seven (7) years after the commission of the crime.

F. Prosecution for the crime of false or bogus check pursuant to Section 1541.1, 1541.2, 1541.3 or 1541.4 of Title 21 of the Oklahoma Statutes shall be commenced within five (5) years after the commission of such offense.

G. Prosecution for the crime of solicitation for murder in the first degree pursuant to Section 701.16 of Title 21 of the Oklahoma Statutes shall be commenced within seven (7) years after the discovery of the crime. For purposes of this subsection, "discovery" means the date upon which the crime is made known to anyone other than a person involved in the solicitation.

H. In all other cases a prosecution for a public offense must be commenced within three (3) years after its commission.

I. Prosecution for the crime of accessory after the fact must be commenced within the same statute of limitations as that of the felony for which the person acted as an accessory.

J. Prosecution for the crime of arson pursuant to Section 1401, 1402, 1403, 1404 or 1405 of Title 21 of the Oklahoma Statutes shall be commenced within seven (7) years after the commission of the crime.

K. Prosecutions for criminal violations in which a deadly weapon is used to commit a felony or prosecutions for criminal violations in which a deadly weapon is used in an attempt to commit a felony shall be commenced within seven (7) years after the commission of the crime.

L. No prosecution under subsection C of this section shall be based upon the memory of the victim that has been recovered through psychotherapy unless there is some evidence independent of such repressed memory.

Any person who knowingly and willfully makes a false claim pursuant to subsection C of this section or a claim that the person knows lacks factual foundation may be reported to local law enforcement for criminal investigation and, upon conviction, shall be guilty of a felony.

M. As used in paragraph 1 of subsection C of this section, "discovery" means the date that a physical or sexually related crime involving a victim eighteen (18) years of age or older is reported to a law enforcement agency.

R.L. 1910, § 5625. Amended by Laws 1943, p. 84, § 2, emerg. eff. April 12, 1943; Laws 1945, p. 97, § 1, emerg. eff. Feb. 1, 1945; Laws 1965, c. 245, § 1, emerg. eff. June 16, 1965; Laws 1968, c. 218, § 1, emerg. eff. April 23, 1968; Laws 1983, c. 74, § 1, eff. Nov. 1, 1983; Laws 1985, c. 112, § 5, eff. Nov. 1, 1985; Laws 1986, c. 218, § 2, emerg. eff. June 9, 1986; Laws 1989, c. 348, § 14, eff. Nov. 1, 1989; Laws 1990, c. 308, § 1, emerg. eff. May 30, 1990; Laws 1991, c. 182, § 64, eff. Sept. 1, 1991; Laws 1994, 2nd Ex. Sess., c. 1, § 2, emerg. eff. Nov. 4, 1994; Laws 2000, c. 245, § 3, eff. Nov. 1, 2000; Laws 2001, c. 18, § 2, eff. July 1, 2001; Laws 2002, c. 475, § 3; Laws

2005, c. 101, § 1, eff. Nov. 1, 2005; Laws 2006, c. 126, § 1, eff. Nov. 1, 2006; Laws 2006, c. 215, § 2, eff. July 1, 2006; Laws 2007, c. 25, § 1, eff. Nov. 1, 2007; Laws 2007, c. 358, § 4, eff. July 1, 2007; Laws 2008, c. 434, § 1, eff. Nov. 1, 2008; Laws 2009, c. 51, § 1, eff. Nov. 1, 2009; Laws 2009, c. 234, § 130, emerg. eff. May 21, 2009; Laws 2010, c. 2, § 6, emerg. eff. March 3, 2010; Laws 2010, c. 96, § 1, eff. Nov. 1, 2010; Laws 2015, c. 290, § 2, eff. Nov. 1, 2015; Laws 2016, c. 19, § 1, eff. Nov. 1, 2016; Laws 2017, c. 134, § 2, eff. Nov. 1, 2017.
NOTE: Laws 2009, c. 93, § 1 repealed by Laws 2010, c. 2, § 7, emerg. eff. March 3, 2010.

§22-153. Absence from state, limitation does not run.

If when the offense is committed the defendant be out of the state, the prosecution may be commenced within the term herein limited after his coming within the state, and no time during which the defendant is not an inhabitant of or usually resident within the state, is part of the limitation.
R.L.1910, § 5626.

§22-161. Magistrate defined.

A magistrate is an officer having power to issue a warrant for the arrest of a person charged with a public offense.
R.L.1910, § 5627.

§22-162. Who are magistrates.

The following persons are magistrates:

First. Justices of the Supreme Court.

Second. Judges of the Court of Criminal Appeals.

Third. Judges of the Court of Appeals.

Fourth. Judges of the district court, including associate district judges and special judges.
R.L.1910, § 5628; Laws 1968, c. 162, § 7; Laws 1970, c. 247, § 16, emerg. eff. April 15, 1970.

§22-171. Complaint - Issuance of warrant of arrest.

When a complaint, verified by oath or affirmation, is laid before a magistrate, of the commission of a public offense, he must, if satisfied therefrom that the offense complained of has been committed, and that there is reasonable ground to believe that the defendant has committed it, issue a warrant of arrest.
R.L.1910, § 5629. R.L.1910, § 5629.

§22-171.1. Arrest warrant for escaped prisoner.

A. Any warden, superintendent or district supervisor within the Department of Corrections may make application to a judge for an arrest warrant upon any prisoner escaping from custody or confinement

in an institution or facility of the Department of Corrections or from house arrest or the Preparole Conditional Supervision Program. Said application shall be a statement verified by oath or affirmation alleging the occurrence of an escape.

B. If the judge is satisfied that an escape has occurred, the judge shall affix his signature to a warrant of arrest of the prisoner.

C. The person making application for the arrest warrant shall cause to be delivered as soon as possible, a copy of the issued warrant of arrest of the prisoner to the court clerk, the district attorney and the sheriff's office within the geographical area where the escape occurred.

D. Nothing in this section shall prohibit the filing of any criminal charges by the district attorney against the prisoner charged with escape.

Added by Laws 1992, c. 166, § 1, eff. Sept. 1, 1992.

§22-171.2. Determination of citizenship status of persons confined in jail - Verification of status - Presumption of flight risk.

A. When a person charged with a felony or with driving under the influence pursuant to Section 11-902 of Title 47 of the Oklahoma Statutes is confined, for any period, in the jail of the county, any municipality or a jail operated by a regional jail authority, a reasonable effort shall be made to determine the citizenship status of the person so confined.

B. If the prisoner is a foreign national, the keeper of the jail or other officer shall make a reasonable effort to verify that the prisoner has been lawfully admitted to the United States and, if lawfully admitted, that such lawful status has not expired. If verification of lawful status cannot be made from documents in the possession of the prisoner, verification shall be made within forty-eight (48) hours through a query to the Law Enforcement Support Center of the United States Department of Homeland Security or other office or agency designated for that purpose by the United States Department of Homeland Security. If the lawful immigration status of the prisoner cannot be verified, the keeper of the jail or other officer shall notify the United States Department of Homeland Security.

C. For the purpose of determining the grant of or issuance of bond, it shall be a rebuttable presumption that a person whose citizenship status has been verified pursuant to subsection B of this section to be a foreign national who has not been lawfully admitted to the United States is at risk of flight.

Added by Laws 2007, c. 112, § 5, eff. Nov. 1, 2007.

§22-172. Form of warrant.

A warrant of arrest is an order in writing, in the name of the state, signed by a magistrate, commanding the arrest of the defendant, and may be substantially in the following form:

County of _____

The State of Oklahoma

To any sheriff, constable, marshal or policeman in this state (or in the county of _____ as the case may be):

Complaint upon oath having been this day made before me that the crime of (designating it) has been committed, and accusing C. D. thereof, you are therefore commanded forthwith to arrest the above named C. D. and bring him before me at (naming the place), or, in case of my absence or inability to act, before the nearest or most accessible magistrate in this county.

Dated at _____ this _____ day of _____ 191__.

E. F., Justice of the Peace (or as the case may be).

R.L.1910, § 5629. R.L.1910, § 5629.

§22-173. Requisites of warrant.

The warrant must specify the name of the defendant, or, if it is unknown to the magistrate, the defendant may be designated therein by any name. It must also state an offense in respect to which the magistrate has authority to issue the warrant, and the time of issuing it, and the county, city, or town where it is issued, and if the offense charged is bailable, shall fix the amount of bail and an endorsement shall be made on the warrant, to the following effect: "The defendant is to be admitted to bail in the sum of $_____." and be signed by the magistrate with his name of office.

Amended by Laws 1982, c. 149, § 1, operative Oct. 1, 1982.

§22-174. Warrant directed to whom.

The warrant must be directed to and executed by a peace officer.

R.L.1910, § 5632. R.L.1910, § 5632.

§22-175. County in which warrant may be served - Who may serve.

All warrants, except those issued for violation of city ordinances, may be served in any county in the state; and may be served by any peace officer to whom they may be directed or delivered.

R.L.1910, § 5633.

§22-176. Taking defendant before magistrate in felony cases - Use of closed circuit television.

If the offense charged in the warrant be a felony, the officer making the arrest must take the defendant before the magistrate who issued the warrants or some other magistrate in the county or the image of the defendant may be broadcast by closed circuit television to the magistrate. A closed circuit television system may not be

used under this section and Section 177 of this title unless the system provides for a two-way communication of image and sound between the arrested person and the magistrate.
R.L.1910, § 5634; Amended by Laws 1991, c. 178, § 1, eff. Sept. 1, 1991.

§22-177. Taking defendant before magistrate in misdemeanor cases - Use of closed circuit television.

If the offense charged in the warrant be a misdemeanor and the defendant be arrested in another county, the officer must, upon being required by the defendant, take him before a magistrate in that county, or the image of the defendant may be broadcast by closed circuit television to the magistrate as provided in Section 176 of this title, who must admit the defendant to bail and take bail from him accordingly.
R.L.1910, § 5635; Amended by Laws 1991, c. 178, § 2, eff. Sept. 1, 1991.

§22-178. Proceedings when bail is taken.

On taking bail, the magistrate must certify that fact on the warrant, and deliver the warrant and undertaking of bail to the officer having charge of the defendant. The officer must then discharge the defendant from arrest, and must, without delay, deliver the warrant and undertaking to the clerk of the court at which the defendant is required to appear.
R.L.1910, § 5636.

§22-179. When bail is not given.

If, on the admission of the defendant to bail, bail be not forthwith given, the officer must take the defendant before the magistrate who issued the warrant, or some other magistrate in the same county, as provided in the next section.
R.L.1910, § 5637.

§22-180. Magistrate absent - Taking defendant before another.

When, by the preceding sections of this chapter, the defendant is required to be taken before the magistrate who issued the warrant, he may, if the magistrate be absent or unable to act, be taken before the nearest or most accessible magistrate in the same county. The officer must, at the same time, deliver to the magistrate the warrant, with the return endorsed and subscribed by him.
R.L.1910, § 5638.

§22-181. Delay in taking before magistrate not permitted.

The defendant must, in all cases, be taken before the magistrate without unnecessary delay.
R.L.1910, § 5639.

§22-182. Complaint when defendant taken before magistrate other than one issuing warrant.

If the defendant be taken before a magistrate other than the one who issued the warrant, the complaint on which the warrant was granted must be sent to that magistrate, or if it cannot be procured, a new complaint must be filed.

R.L.1910, § 5640. R.L.1910, § 5640.

§22-183. Offense triable in another county - Proceedings for arrest.

When a complaint is laid before a magistrate of the commission of a public offense triable in another county of the state, but showing that the defendant is in the county where the complaint is made, the same proceedings must be had as prescribed in this chapter, except that the warrant must require the defendant to be taken before the nearest and most accessible magistrate of the county in which the offense is triable, and the complaint of the informant, with the depositions, if any, of the witnesses who may have been produced, must be delivered by the magistrate to the officer to whom the warrant is delivered.

R.L.1910, § 5641.

§22-184. Offense triable in another county - Taking defendant before magistrate.

The officer who executes the warrant must take the defendant before the nearest or most accessible magistrate of the county in which the offense is triable with his return endorsed thereon, and the magistrate must then proceed in the same manner as upon a warrant issued by himself.

R.L.1910, § 5642.

§22-185. Offense triable in another county - Taking defendant before magistrate in misdemeanor cases.

If the offense charged in the warrant issued, pursuant to the second preceding section is a misdemeanor, the officer must upon being required by the defendant, take him before a magistrate of the county in which the warrant was issued, who must admit the defendant to bail, and immediately transmit the warrant, complaint, depositions, if any, and undertaking, to the clerk of the court in which the defendant is required to appear.

R.L. 1910, § 5643. R.L. 1910, § 5643.

§22-186. Arrest defined.

Arrest is the taking of a person into custody, that he may be held to answer for a public offense.

R.L.1910, § 5644. R.L.1910, § 5644. R.L.1910, § 5644.

§22-187. Arrest made by whom.

An arrest may be either:

1. By a peace officer, under warrant,

2. By a peace officer without a warrant; or,

3. By a private person.

R.L.1910, § 5645.

§22-188. Aid to officer.

Every person must aid an officer in the execution of a warrant, if the officer require his aid.

R.L.1910, § 5646.

§22-189. Arrest, when made.

If the offense charged is a felony, the arrest may be made on any day, and at any time of the day or night. If it is a misdemeanor, the arrest may be made only during the hours of six o'clock a.m. to ten o'clock p.m., inclusive, except as otherwise may be directed by the magistrate endorsed upon the warrant. Provided, an arrest on a warrant which charges a misdemeanor offense may be made at any time of the day or night if the defendant is in a public place or on a public roadway.

R.L. 1910, § 5647. R.L. 1910, § 5647. Amended by Laws 1990, c. 148, § 1, emerg. eff. May 1, 1990.

§22-190. Arrest, how made.

An arrest is made by an actual restraint of the person of the defendant, or by his submission to the custody of the officer.

R.L.1910, § 5648.

§22-190.1. Custody of person arrested without warrant for nonbailable offense.

The person, when arrested without warrant for an offense not bailable, shall be held in custody by the sheriff of the county in which the arrest was made. If the sheriff has contracted for the custody of prisoners in the county, the contractor shall be required to hold in custody any prisoner delivered to the contractor pursuant to this section.

Added by Laws 2003, c. 199, § 3, eff. Nov. 1, 2003.

§22-191. Restraint which is permissible.

The defendant is not to be subjected to any more restraint than is necessary for his arrest and detention.

R.L.1910, § 5649.

§22-192. Officer must show warrant.

The officer must inform the defendant that he acts under the authority of the warrant, and must also show the warrant within a reasonable time under the circumstances, if requested.
Amended by Laws 1983, c. 294, § 2, eff. Nov. 1, 1983.

§22-193. Resistance, means to overcome.
If, after notice of intention to arrest the defendant, he either flee or forcibly resist, the officer may use all necessary means to effect the arrest.
R.L.1910, § 5651.

§22-194. Officer may break open door or window, when.
The officer may break open an outer or inner door or window of a dwelling house, to execute the warrant, if, after notice of his authority and purpose, he be refused admittance.
R.L.1910, § 5652.

§22-195. Officer's breaking door or window to liberate himself or another arrester.
An officer may break open an outer or inner door or window of a dwelling house for the purposes of liberating a person who, having entered for the purpose of making an arrest, is detained therein, or when necessary for his own liberation.
R.L.1910, § 5653. R.L.1910, § 5653.

§22-196. Arrest without warrant by officer.
A peace officer may, without a warrant, arrest a person:
1. For a public offense, committed or attempted in the officer's presence;
2. When the person arrested has committed a felony, although not in the officer's presence;
3. When a felony has in fact been committed, and the officer has reasonable cause to believe the person arrested to have committed it;
4. On a charge, made upon reasonable cause, of the commission of a felony by the party arrested;
5. When the officer has probable cause to believe that the party was driving or in actual physical control of a motor vehicle involved in an accident within this state, whether upon public roads, highways, streets, turnpikes, other public places, or upon any private road, street, alley or lane which provides access to one or more single- or multi-family dwellings and was under the influence of alcohol or intoxicating liquor or who was under the influence of any substance included in the Uniform Controlled Dangerous Substances Act;
6. Anywhere, including a place of residence of the person, if the peace officer has probable cause to believe the person within the preceding seventy-two (72) hours has committed an act of domestic

abuse as defined by Section 60.1 of this title, although the assault did not take place in the presence of the peace officer. A peace officer may not arrest a person pursuant to this section without first observing a recent physical injury to, or an impairment of the physical condition of, the alleged victim;

7. When a peace officer, in accordance with the provisions of Section 60.9 of this title, is acting on a violation of a protective order offense; or

8. When the officer has probable cause to believe that the person has threatened another person as defined in subsection B of Section 1378 of Title 21 of the Oklahoma Statutes.

R.L.1910, § 5654. Amended by Laws 1975, c. 228, § 1, eff. Oct. 1, 1975; Laws 1977, c. 27, § 1, eff. Oct. 1, 1977; Laws 1982, c. 269, § 1, eff. Oct. 1, 1982; Laws 1987, c. 174, § 2, operative July 1, 1987; Laws 1994, c. 316, § 2, emerg. eff. June 8, 1994; Laws 2000, c. 370, § 12, eff. July 1, 2000; Laws 2001, c. 437, § 16, eff. July 1, 2001; Laws 2014, c. 200, § 1.

§22-197. Arrest without warrant, breaking door or window.

To make an arrest, as provided in the last section, the officer may break open an outer or inner door or window of a dwelling house, if, after notice of his office and purpose, he be refused admittance.
R.L.1910, § 5655.

§22-198. Nighttime, arrest of suspected felon.

He may also at night, without a warrant, arrest any person whom he has reasonable cause for believing to have committed a felony, and is justified in making the arrest though it afterward appear that the felony had not been committed.
R.L.1910, § 5656.

§22-199. Authority must be stated on arrest without warrant, when.

When arresting a person without a warrant, the officer must inform him of his authority and the cause of the arrest, except when he is in actual commission of a public offense, or is pursued immediately after an escape.
R.L.1910, § 5657.

§22-200. Arrest by bystander - Officer may take defendant before magistrate.

He may take before a magistrate, a person, who being engaged in a breach of the peace, is arrested by a bystander and delivered to him.
R.L.1910, § 5658. R.L.1910, § 5658.

§22-201. Offense committed in presence of magistrate.

When a public offense is committed in the presence of a magistrate, he may, by a verbal or written order, command any person

to arrest the offender, and may thereupon proceed as if the offender had been brought before him on a warrant of arrest.
R.L. 1910, Sec. 5659.

§22-202. Arrest by private person.
A private person may arrest another:
1. For a public offense committed or attempted in his presence.
2. When the person arrested has committed a felony although not in his presence.
3. When a felony has been in fact committed, and he has reasonable cause for believing the person arrested to have committed it.
R.L.1910, § 5659.

§22-203. Private person must inform person of cause of arrest.
He must, before making the arrest, inform the person to be arrested of the cause thereof, and require him to submit, except when he is in actual commission of the offense or when he is arrested on pursuit immediately after its commission.
R.L.1910, § 5661.

§22-204. Private person may break door or window.
If the person to be arrested has committed a felony, and a private person, after notice of the intention to make the arrest, be refused admittance, the private person may break open an outer or inner door or window of the dwelling house of the person to be arrested, for the purpose of making the arrest.
R.L.1910, § 5662. Amended by Laws 2002, c. 460, § 15, eff. Nov. 1, 2002.

§22-205. Private person making arrest must take defendant to magistrate or officer.
A private person who has arrested another for the commission of a public offense, must, without unnecessary delay, take him before a magistrate or deliver him to a peace officer.
R.L.1910, § 5663.

§22-206. Disarming person arrested.
Any person making an arrest must take from the person arrested all offensive weapons which he may have about his person, and must deliver them to the magistrate before whom he is taken.
R.L.1910, § 5664. R.L.1910, § 5664.

§22-207. Pursuit and arrest of escaped prisoner.
If a person arrested escape or be rescued, the person from whose custody he escaped or was rescued, may immediately pursue and retake him, at any time, and in any place in the state.

R.L.1910, § 5665.

§22-208. Breaking door or window to arrest person escaping.

To take the person escaping or rescued, the person pursuing may, after notice of his intention and refusal of admittance, break open an outer or inner door or window of a dwelling house.
R.L.1910, § 5666. R.L.1910, § 5666.

§22-209. Citation to appear - Issuance - Summons - Failure to appear.

(1) A law enforcement officer who has arrested a person on a misdemeanor charge or violation of city ordinance, without a warrant, may issue a citation to such person to appear in court.

(2) In issuing a citation hereunder the officer shall proceed as follows:

(a) He shall prepare a written citation to appear in court, containing the name and address of the cited person and the offense charged, and stating when the person shall appear in court. Unless the person requests an earlier date, the time specified in the citation to appear shall be at least five (5) days after the issuance of the citation.

(b) One copy of the citation to appear shall be delivered to the person cited, and such person shall sign a duplicate written citation which shall be retained by the officer.

(c) The officer shall thereupon release the cited person from any custody.

(d) As soon as practicable, the officer shall file one copy of the citation with the court specified therein and shall deliver one copy to the prosecuting attorney.

(3) In any case in which the judicial officer finds sufficient grounds for issuing a warrant, he may issue a summons commanding the defendant to appear in lieu of a warrant.

(4) If a person summoned fails to appear in response to the summons, a warrant for his arrest shall issue, and any person who willfully fails to appear in response to a summons is guilty of a misdemeanor.
Laws 1967, c. 250, § 1, emerg. eff. May 8, 1967.

§22-210. Felony arrest – DNA testing required.

A. Subject to the availability of funds, a person eighteen (18) years of age or older who is arrested for the commission of a felony under the laws of this state or any other jurisdiction shall, upon being booked into a jail or detention facility, submit to deoxyribonucleic acid (DNA) sample collection for testing for DNA-identification-matching purposes in accordance with Section 150.27a of Title 74 of the Oklahoma Statutes and the rules promulgated by the Oklahoma State Bureau of Investigation (OSBI) for the OSBI Combined

DNA Index System (CODIS) Database. DNA samples shall be collected by trained medical personnel, law enforcement, tribal police officers, or employees or medical contractors of those organizations as qualified pursuant to subsection B of this section.

B. Samples of blood or saliva for DNA testing or for DNA-identification-matching purposes required by subsection A of this section shall be taken by trained medical personnel, law enforcement, tribal police officers, or employees or medical contractors of those organizations. The individuals shall be properly trained to collect blood or saliva samples. Persons collecting blood or saliva for DNA testing or for DNA-identification-matching purposes pursuant to this section shall be immune from civil liabilities arising from this activity. All collectors of DNA samples shall ensure the collected samples are mailed or delivered to the OSBI within ten (10) days after the DNA sample is collected from the person using sample kits provided by the OSBI and procedures promulgated by the OSBI, or if the jail, detention facility, booking facility of a federally recognized American Indian tribe in Oklahoma or other designated facility is using Rapid DNA technology, the collector shall use the provided collection instruments. Once the DNA-identification-matching process has concluded and a sample has been mailed or delivered to the OSBI, the collector shall discard the Rapid DNA sample taken in the jail, detention facility, booking facility of a federally recognized American Indian tribe in Oklahoma or other designated facility.

If a jail, detention facility, booking facility of a federally recognized American Indian tribe in Oklahoma or other designated facility is using Rapid DNA technology to take the DNA sample for DNA identification purposes, said sample shall not be retained, tested or stored after completion of the Rapid DNA identification process. Any person charged with the custody and dissemination of DNA samples and profiles shall not divulge or disclose any such information except to federal, state, county or municipal law enforcement or criminal justice agencies, nor shall the person tamper with the samples and profiles taken. Any person violating the provisions of this section shall, upon conviction, be guilty of a misdemeanor punishable by imprisonment in the county jail for not more than one (1) year.

C. A DNA sample shall not be analyzed and shall be destroyed unless one of the following conditions has been met:

1. The arrest was made upon a valid felony arrest or warrant;

2. The person has appeared before a judge or magistrate judge who made a finding that there was probable cause for the arrest;

3. The person posted bond or was released prior to appearing before a judge or magistrate judge and then failed to appear for a scheduled hearing; or

4. The DNA sample was provided as a condition of a plea agreement.

D. All DNA samples, records and identifiable information generated pursuant to the provisions of this section shall be automatically expunged from the OSBI Combined DNA Index System (CODIS) Database under the following circumstances:

1. The felony offense for which the person was arrested does not result in charges either by information or indictment and the statute of limitations has expired;

2. The state voluntarily dismissed the felony charge filed against the person; or

3. The court dismissed the felony charge filed against the person.

The Oklahoma State Bureau of Investigation shall promulgate rules establishing procedures relating to the automatic expungement of DNA samples, records and identifiable information collected under the provisions of this section. Fees related to the expungement of DNA samples, records and identifiable information shall not be assessed for persons who qualify for an automatic expungement under the provisions of this subsection.

Added by Laws 2016, c. 181, § 1, eff. Nov. 1, 2016. Amended by Laws 2019, c. 374, § 1, eff. Nov. 1, 2019.

§22-211.1. DNA information inadmissible post-expungement date.

All deoxyribonucleic acid (DNA) samples, records and identifiable information generated pursuant to the provisions of Section 1 of Enrolled House Bill No. 2275 of the 2nd Session of the 55th Oklahoma Legislature that are required to be automatically expunged under the provisions of that section shall be inadmissible in any prosecution of that person for a crime committed after the date the DNA samples, records and identifiable information should have been automatically expunged.

Added by Laws 2016, c. 348, § 3, eff. Nov. 1, 2016.

§22-221. Authority of officers of another state.

Any member of a duly organized state, county, or municipal peace unit of another state of the United States who enters this state in fresh pursuit, and continues within this state in such fresh pursuit, of a person in order to arrest him on the ground that he is believed to have committed a felony in such other state, shall have the same authority to arrest and hold such person in custody, as has any member of any duly organized state, county or municipal peace unit of this state, to arrest and hold in custody a person on the ground that he is believed to have committed a felony in this state.

Laws 1949, p. 212, § 1.

§22-222. Taking prisoner before magistrate.

If an arrest is made in this state by an officer of another state in accordance with the provisions of Section 1 of this act he shall

without unnecessary delay take the person arrested before a magistrate of the county in which the arrest was made, who shall conduct a hearing for the purpose of determining the lawfulness of the arrest. If the magistrate determines that the arrest was lawful he shall commit the person arrested to await for a reasonable time the issuance of an extradition warrant by the Governor of this state or admit him to bail for such purpose. If the magistrate determines that the arrest was unlawful he shall discharge the person arrested.
Added by Laws 1949, p. 212, § 1, emerg. eff. May 31, 1949.

§22-223. Arrests otherwise lawful.

Section 1 of this act shall not be construed so as to make unlawful any arrest in this state which would otherwise be lawful.
Added by Laws 1949, p. 212, § 3, emerg. eff. May 31, 1949.

§22-224. State includes District of Columbia.

For the purpose of this act the word "state" shall include the District of Columbia.
Laws 1949, p. 212, § 4.

§22-225. Fresh pursuit defined.

The term "fresh pursuit" as used in this act shall include fresh pursuit as defined by the common law, and also the pursuit of a person who has committed a felony or who is reasonably suspected of having committed a felony. It shall also include the pursuit of a person suspected of having committed a supposed felony, though no felony has actually been committed, if there is a reasonable ground for believing that felony has been committed. Fresh pursuit as used herein shall not necessarily imply instant pursuit, but pursuit without unreasonable delay.
Laws 1949, p. 212, § 5.

§22-227. Partial invalidity.

If any part of this act is for any reason declared void, it is declared to be the intent of this act that such invalidity shall not affect the validity of the remaining portions of this act.
Added by Laws 1949, p. 213, § 7, emerg. eff. May 31, 1949.

§22-228. Short Title.

This act may be cited as the Uniform Act on Fresh Pursuit.
Laws 1949, p. 213, § 8.

§22-231. Misdemeanors - Warrant for arrest - Complaint submitted to district attorney - Cost bond.

In all misdemeanor cases, before a warrant shall issue for the arrest of the defendant the complaint must be submitted to the district attorney, or drawn by him and indorsed as follows: "I have

examined the facts in this case and recommend that a warrant do issue", and then filed with the court. If the action be brought without such endorsement the complaining witness must file with the court a bond to be approved by the court in a sum not less than Fifty Dollars ($50.00), conditioned to pay all costs, and the county shall in no event be liable for any costs incurred in that action, unless the complaint be first so endorsed by the district attorney.
R.L.1910, § 6176.

§22-232. Form of cost bond.

The bond may be substantially in the following form:

State of Oklahoma, against (naming the defendant). I, (naming the principal) as principal and ..... as surety bind ourselves to pay all costs in this cause if the defendant is acquitted. Signed this ..... day of ..... , 19....

The surety must qualify before the bond is approved.
R.L.1910, § 6177.

§22-233. Judgment on bond.

In all cases where bonds have been given under the provisions of this chapter, and the maker thereof shall be liable thereon, by the conviction or acquittal of the defendant, the court shall, at the time of rendering judgment for or against the defendant, render such judgment as may be proper on the bond, and issue execution thereon, as in cases of a civil judgment.
R.L.1910, § 6178.

§22-234. Discretion to charge as misdemeanor.

When determining the appropriate charge for a person accused of committing a criminal offense, the district attorney shall have the discretion to file the charge as a misdemeanor offense rather than a felony offense after considering the following factors:

1. The criminal offense for which the person has been arrested is not listed as a criminal offense in Section 13.1 of Title 21 of the Oklahoma Statutes;

2. The nature of the criminal offense;

3. The age, background and criminal history of the person who committed the criminal offense;

4. The character and rehabilitation needs of the person who committed the criminal offense; and

5. Whether it is in the best interests of justice to file the charge as a misdemeanor offense rather than a felony offense.
Added by Laws 2016, c. 219, § 1, eff. Nov. 1, 2016.

§22-251. Magistrate must inform defendant of charge and rights.

When the defendant is brought before a magistrate upon an arrest, either with or without a warrant, on a charge of having committed a

public offense, the magistrate must immediately inform him of the charge against him, and of his right to the aid of counsel in every stage of the proceedings, and also of his right to waive an examination before any further proceedings are had.
R.L.1910, § 5667.

§22-252. Defendant allowed counsel - Messages to counsel - Change of venue.

He must also allow to the defendant a reasonable time to send for counsel, and adjourn the examination for that purpose; and must, upon the request of the defendant, require a peace officer to take a message to such counsel in the county or city as the defendant may name. The officer must, without delay, perform that duty, and shall receive fees therefor as upon a service of a subpoena: Provided, However, that at any time before the examination is begun, a change of venue may be had, for the same causes and in the same manner, and be transmitted to another justice, as in cases finally triable before a justice of the peace.
R.L.1910, § 5668.

§22-253. Defendant to be examined.

The magistrate must without a jury, immediately after the appearance of counsel, or if none appear and the defendant require the aid of counsel, after waiting a reasonable time therefor, proceed to examine the case. The defendant may be sworn and testify in his own behalf as in civil cases.
R.L.1910, § 5669.

§22-254. Adjournment of examination.

The examination must be completed at one session unless the magistrate for good cause adjourn it.
R.L.1910, § 5670.

§22-255. Disposition of defendant on adjournment.

If an adjournment be had for any cause, the magistrate must commit the defendant for examination, or discharge him from custody upon a sufficient bail, or upon the deposit of money as provided in this code, as security for his appearance at the time to which the examination is adjourned.
R.L.1910, § 5671.

§22-256. Commitment for examination.

The commitment for examination is by an indorsement signed by the magistrate, on the warrant of arrest, to the following effect:

The within named A B, having been brought before me under this warrant, and having failed to give bail for his appearance, is committed to the sheriff of the county of ..... (or to the marshal

of the city of ..... , as the case may be), to await examination on the ..... day of ..... , 1 ..... , at ..... o'clock, at which time you will have his body before me at my office.
R.L.1910, § 5672.

§22-257. Duty of magistrate on examination - Subpoenas for witnesses.

At the examination the magistrate must, in the first place, read to the defendant the complaint on file before him. He must, also, after the commencement of the prosecution, issue subpoenas for any witnesses required by the prosecutor or the defendant.
R.L.1910, § 5673.

§22-258. Preliminary examinations and proceedings thereon.

First: The witnesses must be examined in the presence of the defendant, and may be cross-examined by him. On the request of the district attorney, or the defendant, all the testimony must be reduced to writing in the form of questions and answers and signed by the witnesses, or the same may be taken in shorthand and transcribed without signing, and in both cases filed with the clerk of the district court, by the examining magistrate, and may be used as provided in Section 333 of this title. In no case shall the county be liable for the expense in reducing such testimony to writing, unless ordered by the judge of a court of record.

Second: The district attorney may, on approval of the county judge or the district judge, issue subpoenas in felony cases and call witnesses before him and have them sworn and their testimony reduced to writing and signed by the witnesses at the cost of the county. Such examination must be confined to some felony committed against the statutes of the state and triable in that county, and the evidence so taken shall not be receivable in any civil proceeding. A refusal to obey such subpoena or to be sworn or to testify may be punished as a contempt on complaint and showing to the county court, or district court, or the judges thereof that proper cause exists therefor.

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

Fourth: The convening and session of a grand jury does not dispense with the right of the district attorney to file complaints and informations, conduct preliminary hearings and other routine matters, unless otherwise specifically ordered, by a written order of

the court convening the grand jury; made on the court's own motion, or at the request of the grand jury.

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

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

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

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

R.L.1910, § 5674. Amended by Laws 1913, c. 68, p. 106, § 1; Laws 1961, p. 235, § 1, eff. Oct. 27, 1961; Laws 1994, c. 292, § 3, eff. Sept. 1, 1994; Laws 2002, c. 460, § 16, eff. Nov. 1, 2002; Laws 2003, c. 337, § 1, eff. Nov. 1, 2003.

§22-259. Order of witnesses.

When the examination of the witnesses on the part of the state is closed, any witnesses the defendant may produce may be sworn and

examined upon proper offer of proof made by defendant and if such offer of proof shows that additional testimony is relevant to the issues of a preliminary examination.
R.L. 1910, § 5675. Amended by Laws 1994, c. 292, § 4, eff. Sept. 1, 1994.

§22-260. Magistrate to keep depositions - Inspection.
The magistrate or his clerk must keep the depositions taken on the examination, if any have been taken, and the statement of the defendant, if any, until they are returned to the proper court, and must not permit them to be inspected by any person except a judge of a court having jurisdiction of the offense, the district attorney, and the defendant and his counsel.
R.L.1910, § 5676.

§22-261. Depositions, violation of provisions regarding.
A violation of the provisions of the last section is punishable as a misdemeanor.
R.L.1910, § 5677.

§22-262. Discharge of defendant, when.
After hearing the proofs and the statement of the defendant, if he have one, or his testimony if he testifies if it appear either that a public offense has not been committed, or that a public offense has been committed, but there is not sufficient cause to believe the defendant guilty thereof, the magistrate must order the defendant to be discharged, by an endorsement on the complaint over his signature to the following effect:
There being no sufficient cause to believe the within named A. B. guilty of the offense within mentioned, I order him to be discharged.
R.L.1910, § 5678.

§22-263. Costs taxed against complainant, when.
If the defendant on a preliminary examination for a public offense be discharged as provided in the last section and if the magistrate find that the prosecution was malicious and without probable cause, he shall enter such judgment on his docket and tax the costs against the complaining witness which shall be enforced as judgments for costs in criminal cases, and execution may issue therefor.
R.L.1910, § 5679.

§22-264. Defendant held to answer.
If, however, it appear from the examination that any public offense has been committed, and that there is sufficient cause to believe the defendant guilty thereof, the magistrate must in like

manner endorse on the complaint an order signed by him to the following effect:

It appearing to me that the offense named in the within complaint mentioned (or any other offense, according to the fact, stating generally the nature thereof), has been committed, and that there is sufficient cause to believe the within named A. B. guilty thereof, I order that he be held to answer the same.

R.L.1910, § 5680.

§22-265. Commitment when offense is not bailable.

If the offense be not bailable, the following words or words to the same effect, must be added to the endorsement:

And that he is hereby committed to the sheriff of ..... (or to the marshal of the city of ..... , or as the case may be.)

R.L.1910, § 5681.

§22-266. When offense is bailable.

If the offense is bailable, and bail is taken by the magistrate, the following words, or words to the same effect, must be added to the endorsement mentioned in the second preceding section:

And I have admitted him to bail, to answer, by the undertaking hereto annexed.

R.L.1910, § 5682.

§22-267. If bail is not taken.

If the offense is bailable, and the defendant is admitted to bail, but the bail have not been taken, the following words, or words to the same effect, must be added to such endorsement:

And that he is admitted to bail in the sum of ..... Dollars, and be committed to the sheriff of the county of ..... (or marshal of the city of ..... , or as the case may be), until said bail be given.

R.L.1910, § 5683. R.L.1910, § 5683.

§22-268. Commitment.

If the magistrate order the defendant to be committed as provided in the three preceding sections, he must make out a commitment, signed by him, with his name of office, and deliver it, with the defendant, to the officer, to whom he is committed, or if that officer be not present, to a peace officer, who must immediately deliver the defendant into the proper custody, together with the commitment.

R.L.1910, § 5684.

§22-269. Form of commitment.

The commitment must be to the following effect:

County of .....

The State of Oklahoma.

To the sheriff of the county of ..... , (or the marshal of the city of ..... , as the case may be):

An order having been this day made by me, that A B be held to answer upon a charge of (stating briefly the nature of the offense, with time and place as near as may be), you are commanded to receive him into your custody, and detain him until he is legally discharged.

Dated at ..... , this ..... day of ..... , 191....

C..... ,D.....

Justice of the Peace (or as the case may be).

R.L.1910, § 5685.

§22-270. Witnesses to give undertaking.

On holding the defendant to answer the magistrate may take from each of the material witnesses examined before him on the part of the state, a written undertaking, without surety, to the effect that he will appear and testify at the court to which the complaint and deposition, if any are to be sent or that he will forfeit such sum as the magistrate may fix and determine.

R.L.1910, § 5686.

§22-271. Sureties may be required for witness.

When the magistrate is satisfied, by proof on oath, that there is reason to believe that any such witness will not appear and testify, unless security be required, he may order the witness to enter into a written undertaking, with such sureties and in such sum as he may deem proper, for his appearance, as specified in the last section.

R.L.1910, § 5687.

§22-273. Witness not giving undertaking committed, when.

If a witness, required to enter into an undertaking to appear and testify, either with or without sureties, refuse compliance with the order for that purpose, the magistrate must commit him to prison until he comply, or is legally discharged.

R.L.1910, § 5689.

§22-274. Subsequent security may be demanded - Arrest of witness.

When, however, any material witness on the part of the people has been discharged on his undertaking, without surety, if afterwards, on the sworn application of the district attorney or other person on behalf of the state, made to the magistrate or to any judge, it satisfactorily appears that the presence of such witness or any other person on the part of the people is material or necessary on the trial in court, such magistrate or judge may compel such witness, or any other material witness on the part of the state, to give an undertaking with sureties, to appear on the said trial and give his testimony therein; and, for that purpose, the said magistrate or

judge may issue a warrant against such person, under his hand, with or without seal, directed to a sheriff, marshal or other officer, to arrest such person and bring him before such magistrate or judge.
R.L.1910, § 5690.

§22-275. Arrested witness may be confined.

In case the person so arrested shall neglect or refuse to give said undertaking in the manner required by said magistrate or judge, he may issue a warrant of commitment against such person, which shall be delivered to said sheriff or other officer, whose duty it shall be to convey such person to the jail mentioned in said warrant, and the said person shall remain in confinement until he shall be removed to the grand jury and to the court, for the purpose of giving his testimony, or until he shall have given the undertaking required by said magistrate or judge.
R.L.1910, § 5691.

§22-276. Magistrate discharging or holding defendant must return papers and record to court.

When a magistrate has discharged a defendant, or has held him to answer, he must return immediately to the clerk of the district court of the county, the warrant, if any, the complaint, the depositions, if any have been taken, of all the witnesses examined before him, the statement of the defendant, if he have made one, and all undertakings of bail or for the appearance of witnesses, taken by him, together with a certified record of the proceedings as they appear on his docket.
R.L.1910, § 5692.

§22-301. Manner of prosecution of offenses.

Every felony must be prosecuted by indictment or information in the district or superior court. Misdemeanors must be prosecuted by information, except as otherwise provided by law: Provided, however, that the district court or the judge thereof, may, by order made, direct that any particular misdemeanor be presented to the grand jury, and when so ordered it may be prosecuted by indictment.
R.L.1910, § 5693.

§22-302. Indictment defined.

An indictment is an accusation in writing, presented by a grand jury to a competent court, charging a person with a public offense.
R.L.1910, § 5717.

§22-303. Subscription, endorsement and verification of information - Excusing endorsement.

A. The district attorney shall subscribe the district attorney's name to informations filed in the district court and endorse thereon

the names and last-known addresses of all the witnesses known to the district attorney at the time of filing the same, if intended to be called by the district attorney at a preliminary examination or at trial. Thereafter, the district attorney shall also endorse thereon the names and last-known addresses of such other witnesses as may afterwards become known to the district attorney, if they are intended to be called as witnesses at a preliminary examination or at trial, at such time as the court may by rule prescribe.

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

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

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

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

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

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

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

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

R.L. 1910, § 5694. Amended by Laws 1980, c. 136, § 1, emerg. eff. April 15, 1980; Laws 1991, c. 35, § 1, eff. Sept. 1, 1991; Laws 1992, c. 68, § 1, eff. Sept. 1, 1992; Laws 2004, c. 275, § 9, eff. July 1, 2004; Laws 2008, c. 179, § 3, eff. Nov. 1, 2008.

§22-304. Information may be amended.

An information may be amended in matter of substance or form at any time before the defendant pleads, without leave, and may be amended after plea on order of the court where the same can be done without material prejudice to the right of the defendant; no amendment shall cause any delay of the trial, unless for good cause shown by affidavit.

R.L. 1910, § 5695.

§22-305.1. Deferred prosecution programs - Guidelines - Factors considered.

Before the filing of an information against a person accused of committing a crime, the State of Oklahoma, through its district attorney, may agree with an accused to defer the filing of a criminal information for a period not to exceed three (3) years.

The State of Oklahoma may include any person in a deferred prosecution program if it is in the best interests of the accused and not contrary to the public interest. Each district attorney shall adopt and promulgate guidelines which shall indicate what factors shall be considered in including an accused in the deferred prosecution program. The guidelines shall insure that the State of Oklahoma considers in each case at least the following factors:

1. Whether the State of Oklahoma has sufficient evidence to achieve conviction;

2. The nature of the offense with priority given to first offenders and nonviolent crimes;

3. Any special characteristics of the accused;

4. Whether the accused will cooperate and benefit from a deferred prosecution program;

5. Whether available programs are appropriate to the accused person's needs;

6. Whether the services for the accused are more readily available from the community or from the corrections system;

7. Whether the accused constitutes a substantial danger to others;

8. The impact of the deferred prosecution on the community;

9. The recommendations of the law enforcement agency involved in the case;

10. The opinions of the victim; and

11. Any mitigating or aggravating circumstances.

Laws 1979, c. 226, § 1, eff. Oct. 1, 1979; Laws 2007, c. 358, § 5, eff. July 1, 2007.

§22-305.2. District attorney deferred prosecution.

A. If an accused qualifies for the deferred prosecution program, the accused and the State of Oklahoma, through the district attorney,

may execute an agreement whereby the accused agrees to waive any rights to a speedy accusation, a speedy trial, and any statute of limitations, and agrees to fulfill such conditions to which the accused and the State of Oklahoma may agree including, but not limited to, restitution and community services.

B. The accused, as consideration for entering into a deferred prosecution agreement, consents and agrees to a full and complete photographic record of property which was to be used as evidence. The photographic record shall be competent evidence of the property and admissible in any criminal action or proceeding as the best evidence.

C. Property shall be returned to its owner only after the photographic record is made subject to the following conditions:

1. Property, except that which is prohibited by law, shall be returned to its owner after proper verification of title;

2. The return of property to the owner shall be without prejudice to the state or to any person who may have a claim against the property; and

3. When property is returned, the recipient shall sign, under penalty of perjury, a declaration of ownership which shall be retained by the police department or sheriff's office.

D. As additional consideration for the agreement, the State of Oklahoma shall agree not to file an information if the accused satisfactorily completes the conditions of the agreement.

E. The agreement between the accused and the State of Oklahoma may include provisions whereby the accused agrees to be supervised in the community. If the accused is required to be supervised pursuant to the terms of the agreement, the person shall be required to pay a supervision fee to be established by the supervisory agency. The supervision fee shall be paid to the supervisory agency as required by the rules of the supervisory agency. The supervisory agency shall monitor the person for compliance with the conditions of the agreement. The supervisory agency shall report to the district attorney on the progress of the accused, and shall report immediately if the accused fails to report or participate as required by the agreement.

F. The agreement between the parties may require the accused to participate or consult with local service providers, including the Department of Human Services, the Department of Mental Health and Substance Abuse Services, the Employment Security Commission, federal services agencies, other state or local agencies, colleges, universities, technology center schools, and private or charitable service organizations. When the accused is required to participate or consult with any service provider, a program fee may be required unless the fee would impose an unnecessary hardship on the person. The program fee shall be established by the service provider based upon a sliding scale. Any state agency called upon for assistance in

a deferred prosecution program by any district attorney shall render services and assistance as available. Any supervision fee or program fee authorized by this section may be waived in whole or in part when the accused is indigent. No person who is otherwise qualified for a deferred prosecution program shall be denied services or supervision based solely on the person's inability to pay a fee or fees.

G. The agreement between the parties may require the accused to pay a victim compensation assessment pursuant to the provisions of Section 142.18 of Title 21 of the Oklahoma Statutes. The amount of the assessment shall be agreed to by the parties and shall be within the amounts specified in Section 142.18 of Title 21 of the Oklahoma Statutes for the offense charged.

H. Any deferred prosecution agreement including, but not limited to, any fee, sliding scale fee, compensation, contract, assessment, or other financial agreement charged or waived by the accused or the State of Oklahoma shall be a record open to the public.

I. 1. On or after the effective date of this act, each office of the district attorney shall, upon request and within a reasonable time, provide the name and other identifying information of an accused entering into a deferred prosecution agreement.

2. A deferred prosecution agreement entered into prior to the effective date of this act shall not be a record open to the public, unless confidentiality was waived as a condition of the agreement. Added by Laws 1979, c. 226, § 2, eff. Oct. 1, 1979. Amended by Laws 1984, c. 21, § 2, emerg. eff. March 20, 1984; Laws 1990, c. 51, § 15, emerg. eff. April 9, 1990; Laws 1996, c. 304, § 1, emerg. eff. June 10, 1996; Laws 1997, c. 133, § 72, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 23, eff. July 1, 1999; Laws 2000, c. 278, § 1, eff. July 1, 2000; Laws 2001, c. 33, § 20, eff. July 1, 2001.
NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 72 from July 1, 1998, to July 1, 1999.

§22-305.3. Termination of deferred prosecution agreement.

A. Both the State of Oklahoma and the accused may mutually terminate the deferred prosecution at any time, and the case shall proceed as if there had been no agreement. If the State of Oklahoma makes the termination decision unilaterally, it shall only do so in light of all the relevant circumstances of the case. Arrest of the accused for a subsequent offense shall not automatically terminate the agreement. If the State of Oklahoma should decide to terminate the agreement, it shall:

1. Send a written notice of termination to the accused and the attorney for the accused, if any, explaining the reasons for the termination;

2. Disclose to the accused or the attorney for the accused the evidence supporting the decision to terminate; and

3. Afford the accused the opportunity to be heard and present evidence, and cross-examine witnesses before a judge of the district court. The accused shall have ten (10) days from the date of mailing of the notice to file a written request with the court clerk for the county in which a charge is pending for the hearing, after which the right to a hearing shall be waived. The burden shall be upon the State of Oklahoma to prove that the accused did not fulfill the conditions of the agreement, and that an information should be filed.

B. On and after the effective date of this act, if an agreement is terminated by the State of Oklahoma for failure of the person to comply with the terms of the deferred prosecution agreement, the termination document and supporting documentation shall be open to the public.

C. If an agreement is terminated by the State of Oklahoma and the accused is subsequently tried before a jury, the court shall instruct the jury not to consider any delay in prosecution while the accused was participating in the deferred prosecution program.
Added by Laws 1979, c. 226, § 3, eff. Oct. 1, 1979. Amended by Laws 2000, c. 278, § 2, eff. July 1, 2000.

§22-305.4. Completion of program - Records.

If the accused completes the program agreed upon, the State of Oklahoma shall not file the charges against the accused. The records of the accused shall be sealed and not be released or viewed except on a limited basis by law enforcement or prosecution personnel for the purposes of determining if the accused has been diverted. The district attorney shall take all necessary measures to ensure that all of the records of the person remain confidential.
Laws 1979, c. 226, § 4.

§22-305.5. Information - Release or disclosure - Confidentiality - Admissibility as evidence - Violations - Penalties.

A. Information received and collected by any service agency while the accused participates in a deferred prosecution program shall not be released to any agency or individual that will use the information for dissemination to the general public or be recorded in a computer system that has the potential for connection with national computer files, or be used by a law enforcement agency for the purposes of surveillance and investigation. The provisions of this subsection shall apply only with respect to information received and collected by any service agency pursuant to deferred prosecution agreements entered into by the parties relating to crimes committed prior to the effective date of this act, unless such information is otherwise deemed confidential by law.

B. Any information obtained in the course of investigating the suitability of the accused for inclusion in a deferred prosecution program shall remain confidential except for purposes of deferred

prosecution programs and shall not be released by any individual or agency without permission from the accused, being advised by counsel. The provisions of this subsection shall apply only to agreements entered into by the parties relating to crimes committed prior to July 1, 2000, unless such information is otherwise deemed confidential by law.

C. If the deferred prosecution program is terminated before successful completion of the agreement, no information obtained as a result of the participation of the accused in the deferred prosecution program shall be admissible in any subsequent proceeding to the disadvantage of the accused, except if the information could have been routinely gathered in the police investigation of the crime of the accused.

D. 1. On and after the effective date of this act, any person releasing any information required by this section to be kept confidential shall be guilty of a misdemeanor, and shall, upon conviction, be fined not more than One Thousand Dollars ($1,000.00) or be imprisoned for not more than six (6) months, or both.

2. Prior to the effective date of this act, any person releasing any information required by this section to be kept confidential shall be guilty of a misdemeanor, and shall, upon conviction, be fined not more than One Thousand Dollars ($1,000.00) or be imprisoned for not more than six (6) months, or both.

E. The provisions of this subsection apply only to records within the care and custody of the district attorney.

Added by Laws 1979, c. 226, § 5, eff. Oct. 1, 1979. Amended by Laws 2000, c. 278, § 3, eff. July 1, 2000.

§22-305.6. District Attorneys Council - Duties.

The District Attorneys Council shall assist each district attorney in the development of the deferred prosecution program in their jurisdictions, and shall prepare and promulgate model forms for the use of the various district attorneys of this state.

Amended by Laws 1988, c. 109, § 24, eff. Nov. 1, 1988.

§22-311. Grand jury defined.

A grand jury is a body of men consisting of twelve jurors impaneled and sworn to inquire into and true presentment make of all public offenses against the state committed or triable within the county for which the court is holden.

R.L.1910, § 5696.

§22-311.1. Petition for convening grand jury - Warning.

Every petition for the convening of a grand jury shall contain on the outer page thereof the word "Warning" and underneath this in ten-point type the words, "It is a felony for anyone to sign a petition for the convening of a grand jury with any name other than his own,

or knowingly to sign his name more than once for the convening of the grand jury, or to sign such petition when he is not a legal voter of the county."
Added by Laws 1989, c. 6, § 1, eff. Nov. 1, 1989. Amended by Laws 1989, c. 180, § 10, eff. Nov. 1, 1989.

§22-312. Challenge of grand jury.
The state, or a person held to answer a charge for a public offense, may challenge the panel of a grand jury, or an individual grand juror.
R.L.1910, § 5697.

§22-313. Grounds for challenge to panel.
A challenge to the panel may be interposed by either party for one or more of the following causes only:
1. That the requisite number of ballots was not drawn from the jury box of the county or subdivision.
2. That the drawing was not had in the presence of the officers designated by law, or in the manner prescribed by law.
R.L.1910, § 5698.

§22-314. Jury discharged if challenge allowed.
If a challenge to the panel be allowed, the grand jury must be discharged.
R.L.1910, § 5699.

§22-315. Grounds for challenge to juror.
A challenge to an individual grand juror may be interposed by either party, for one or more of the following causes only:
1. That he is a minor.
2. That he is not a qualified elector.
3. That he is otherwise disqualified under any of the provisions of law, in relation to the qualification of grand jurors. 4. That he is insane.
5. That he is a prosecutor upon a charge against the defendant.
6. That he is a witness on the part of the prosecution and has been served with process by an undertaking as such.
7. That a state of mind exists on his part in reference to the case, or to either party, which will prevent him from acting impartially and without prejudice to the substantial rights of the party challenging; but no person shall be disqualified as a grand juror, by reason of having formed and expressed an opinion upon the matter or cause to be submitted to such jury, founded upon public rumor, statements in public journals, or common notoriety, provided it satisfactorily appear to the court, upon his declaration, under oath, or otherwise, that he can and will, notwithstanding such

opinion, act impartially and fairly upon the matters to be submitted to him.
R.L.1910, § 5700.

§22-316. Challenge may be oral or written - How tried.
Challenges may be oral or in writing, and must be tried by the court.
R.L.1910, § 5701.

§22-317. Ruling on challenge.
The court must allow or disallow the challenge and the clerk must enter its decision upon the minutes if demanded.
R.L.1910, § 5702.

§22-318. Effect of challenge allowed.
If a challenge to an individual grand juror is allowed, he cannot be present at, or take part in the consideration of the charge against the defendant who interposed the challenge, or the deliberations of the grand jury thereon.
R.L.1910, § 5703.

§22-319. Violation, where challenge allowed.
The grand jury must inform the court of a violation of the last section and it is punishable by the court as a contempt.
R.L.1910, § 5704.

§22-320. Challenge to be made before jury is sworn - Exception.
Neither the state, nor a person held to answer a charge for a public offense, can take advantage of any objection to the panel or to an individual grand juror unless it be by challenge, and before the grand jury is sworn, except that after the grand jury is sworn, and before the indictment is found, the court may, in its discretion, upon a good cause shown, receive and allow a challenge.
R.L.1910, § 5705.

§22-321. New grand jury in certain cases.
If the grand jury is discharged by the allowance of a challenge to the whole panel; or if from any cause, in the opinion of the court, another grand jury may become necessary, the court may in its discretion order that another grand jury be summoned.
R.L.1910, § 5706.

§22-322. Special grand jury.
A grand jury formed and impaneled as to and in a particular case after a challenge or challenges to individual grand jurors have been allowed, shall be sworn to act only in such particular case and as to

all other cases at the same term of the court the grand jury shall be formed in the usual manner provided by law.
R.L.1910, § 5707.

§22-323. Court to appoint foreman.

From the persons summoned to serve as grand jurors, and appearing, the court must appoint a foreman. The court must also appoint a foreman when a person already appointed is discharged or excused before the grand jury are dismissed.
R.L.1910, § 5708.

§22-324. Oath to foreman.

The following oath must be administered to the foreman of the grand jury:

You, as foreman of this grand jury, shall diligently inquire into, and true presentment make, of all public offenses against this state, committed or triable within this county (or subdivisions), of which you shall have or can obtain legal evidence. You will keep your own counsel, and that of your fellows, and of the state, and will not, except when required in the due course of judicial proceedings, disclose the testimony of any witness examined before you, nor anything which you or any other grand juror may have said, nor the manner in which you or any other grand juror may have voted on any matter before you. You shall present no person through malice, hatred, or ill will, nor leave any unpresented through fear, favor or affection, or for any reward, or the promise or hope thereof; but in all your presentments, or indictments, you shall present the truth, the whole truth, and nothing but the truth, according to the best of your skill and understanding. So help you God.
R.L.1910, § 5709.

§22-325. Oath to other jurors.

The following oath must be immediately thereupon administered to the other grand jurors present:

The same oath which your foreman has now taken before you on his part, you and each of you shall well and truly observe on your part. So help you God.
R.L.1910, § 5710.

§22-326. Charge to grand jury.

The grand jury, being impaneled and sworn, must be charged by the court. In doing so the court must give them such information as it may deem proper as to the nature of their duties, and as to any charges for public offenses returned to the court, or likely to come before the grand jury.
R.L.1910, § 5711.

§22-327. Jury to retire.

The grand jury must then retire to a private room and inquire into the offenses cognizable by them.

R.L.1910, § 5712.

§22-328. Grand jury must appoint clerk.

The grand jury must appoint one of their number as clerk, who must preserve minutes of their proceedings, except of the votes of the individual members, and of the evidence given before them.

R.L.1910, § 5713.

§22-329. Discharge of grand juror.

A member of the grand jury may for ill health of himself or immediate family, or other cause rendering him unable to serve, be discharged before the term is ended or the labor of the grand jury completed; or, if the judge becomes satisfied that any grand juror is willfully refusing to discharge his duty, the court may order his discharge. In the event of the discharge or death of a grand juror, an alternate grand juror shall be appointed to fill the vacancy by the court. The appointment shall be made in the same order in which the alternate grand jurors were selected. If the number of grand jurors and alternates becomes so depleted as to prevent the grand jury from functioning, as many names as the court may order shall be drawn from the jury box in the same manner the original grand jurors and alternates were drawn, and from the names so drawn there shall be summoned as many grand jurors and alternates as can be found and are able to attend as necessary, and if found they shall be summoned in the order in which their names were drawn from the box. If the number be not thus obtained there shall be another drawing in the same manner. When a sufficient number so drawn appears to fill the panel, the grand jury shall in open court be reimpaneled, but subject to challenge and be charged and sworn in the same manner as when the grand jury was originally impaneled.

R.L.1910, § 5714; Laws 1977, c. 213, § 1, emerg. eff. June 14, 1977.

§22-330. Discharge of grand jury.

On the completion of the business before the grand jury, or completion of the statutory time limit for sessions of a grand jury, or whenever the court shall be of the opinion that the public interests will not be subserved by further continuance of the session, the grand jury must be discharged, but whether the business be completed or not they are discharged by the final adjournment of the court, or by the judge of the district holding court in some other county of the state, not within the judicial district in which the grand jury is called.

R.L.1910, § 5715; Laws 1961, p. 236, § 1.

§22-331. General powers and duties of grand jury.

The grand jury has power to inquire into all public offenses committed or triable in the county or subdivision, and to present them to the court, by indictment or accusation in writing.
R.L.1910, § 5716.

§22-332. Foreman to swear witness.

The foreman may administer an oath to any witness appearing before the grand jury.
R.L.1910, § 5718.

§22-333. Evidence before grand jury.

In the investigation of a charge for the purpose of presenting an indictment or accusation, the grand jury may receive the written testimony of the witnesses taken in a preliminary examination of the same charge, and also the sworn testimony prepared by the district attorney without bringing those witnesses before them, and may hear evidence given by witnesses produced and sworn before them, and may also receive legal documentary evidence. Each indictment or accusation shall be voted on separately by the grand jury.
R.L.1910, § 5719; Laws 1961, p. 236, § 1.

§22-335. Evidence for the accused - Procuring additional evidence.

The grand jurors, upon request of the accused, shall, and on their own motion may, hear the evidence for the accused. It is their duty to weigh all the evidence submitted to them and when they have reason to believe that there is other evidence, they may order such evidence to be produced, and for that purpose the State's Attorney shall cause process to issue for the witnesses.
R.L.1910, § 5721; Laws 1961, p. 236, § 1.

§22-336. Indictment to be found, when.

The grand jury ought to find an indictment when all the evidence before them, taken together, is such as in their judgment would, if unexplained or uncontradicted, warrant a conviction by the trial jury.
R.L.1910, § 5722.

§22-337. Members to give evidence.

If a member of the grand jury knows, or has reason to believe, that a public offense has been committed, which is triable in the county or subdivision, he must declare the same to his fellow jurors, who must thereupon investigate the same.
R.L.1910, § 5723.

§22-338. Subjects for inquiry by grand jury.

The grand jury must inquire:

1. Into the case of every person imprisoned in the jail of the county or subdivision, on a criminal charge, and not indicted.

2. Into the condition and management of the public prisons in the county or subdivision; and,

3. Into the willful and corrupt misconduct in office of public officers of every description in the county or subdivision.

R.L.1910, § 5724.

§22-339. Access to prisons and records.

They are also entitled to free access at all reasonable times, to public prisons, and to the examination, without charge, of all public records in the county.

R.L. 1910, § 5725.

§22-340. Advice of court or district attorney – Reproduction or disclosure of transcript - Who may be present.

A. The grand jury may at all reasonable times ask the advice of the court or of the district attorney. In no event shall the grand jury be advised as to the sufficiency or insufficiency of the evidence necessary to return a true bill, in a matter under investigation before them. The district attorney, with or without a regularly appointed assistant district attorney individually or collectively, or if the district attorney and all of his or her assistants are disqualified for any reason, a district attorney or assistant district attorney from another district, appointed by the Attorney General of Oklahoma pursuant to Sections 215.9 and 215.13 of Title 19 of the Oklahoma Statutes, and where proper, the Attorney General, or an assistant attorney general, may at all times appear before the grand jury for the purpose of giving information or advice relative to any matter cognizable before them and may interrogate witnesses before them whenever he or she thinks it necessary. A qualified court reporter shall be present and take the testimony of all witnesses.

B. Upon request a transcript of the testimony or any portion thereof shall be made available to an accused or the district attorney, at the expense of the requesting party or officer, and, in the event of an indigent accused, at the expense of the state. Any person who obtains a copy of a transcript shall not reproduce the transcript in whole or in part or otherwise disclose its contents to any person other than his or her attorney without leave of the court. Violation of this provision shall be punishable as contempt. Provided, nothing in this section shall prohibit the attorney for the accused, the district attorney or assistant district attorney from reproducing in whole or in part the transcribed testimony of a witness he or she anticipates calling to testify at trial and

providing same to said witness for the sole purpose of preparing for trial.

C. No other person is permitted to be present during sessions of the grand jury except the members of the grand jury, the witness actually under examination, and one attorney representing such witness, except that an interpreter, when necessary, may be present during the interrogation of a witness; provided that, no person, except the members of the grand jury, shall be permitted to be present during the expression of juror opinions or the giving of votes upon any matter before the grand jury; provided further that neither the district attorney, nor an assistant district attorney, may be present or participate in an official capacity, as herein provided, during an investigation by the grand jury of the district attorney's office, or of any person officially associated with said office.

R.L. 1910, § 726; Laws 1961, p. 236, § 1; Laws 1965, c. 532, § 1; Laws 1967, c. 226, § 1, emerg. eff. May 2, 1967; Laws 1974, c. 60, § 1; Laws 1989, c. 179, § 3, eff. Nov. 1, 1989; Laws 1999, c. 147, § 1, emerg. eff. May 3, 1999.

§22-341. Proceedings kept secret.

Every member of the grand jury must keep secret whatever he himself or any other grand juror may have said or in what manner he or any other grand juror may have voted on a matter before them.

R.L.1910, § 5727.

§22-342. Juror may disclose proceedings, when.

A member of the grand jury may, however, be required by any court to disclose the testimony of a witness examined before the grand jury for the purpose of ascertaining whether it is consistent with that given by the witness before the court, or to disclose the testimony given before them by any person, upon a charge against him for perjury in giving his testimony or upon his trial therefor.

R.L.1910, § 5729.

§22-343. Privilege of grand juror.

A grand juror cannot be questioned for anything he may say, or any vote he may give in the grand jury, relative to a matter legally pending before the jury, except for a perjury of which he may have been guilty in making an accusation or giving testimony to his fellow jurors.

R.L.1910, § 5729.

§22-344. Interpreter - Appointment - Compensation.

That upon the request of either the district attorney, or the grand jurors, the district judge who has called a grand jury shall appoint, whenever necessary, an interpreter, and shall swear him to

secrecy, not to disclose any testimony or the name of any witness which shall be presented to the grand jury except when testifying in a court of record.

The compensation for any interpreter thus appointed shall be fixed and allowed by the judge appointing him, and such fees, when earned, may be allowed and paid from time to time as they accrue, and shall be paid from the funds from which the grand jurors are paid.
Laws 1941, p. 88, § 1.

§22-345. Restrictions on sessions before and after elections.

No grand jury shall be convened or remain in session during a period beginning thirty (30) days before any Primary, Runoff Primary, or General Election, for state or county offices, and ending ten (10) days after such Primary, Runoff Primary, or General Election. Any grand jury in session at the commencement of any such period shall be discharged forthwith. The provisions of this section shall not apply to a multicounty grand jury convened pursuant to the Multicounty Grand Jury Act, Section 350 et seq. of this title.
Amended by Laws 1990, c. 232, § 2, emerg. eff. May 18, 1990.

§22-346. Reports of investigations of public offices or institutions.

In addition to any indictments or accusations that may be returned, the grand jury, in their discretion, may make formal written reports as to the condition and operation of any public office or public institution investigated by them. No such report shall charge any public officer, or other person with willful misconduct or malfeasance, nor reflect on the management of any public office as being willful and corrupt misconduct. It being the intent of this section to preserve to every person the right to meet his accusers in a court of competent jurisdiction and be heard, in open court, in his defense.

Laws 1961, P. 237, Sec. 1.

§22-350. Multicounty Grand Jury Act - Conflicting provisions.

This act shall be known and may be cited as the "Multicounty Grand Jury Act". All matters not specifically governed by the provisions of the Multicounty Grand Jury Act shall be subject to the provisions governing grand juries. If the provisions of the Multicounty Grand Jury Act conflict with the provisions governing grand juries, the provisions of the Multicounty Grand Jury Act shall govern.
Added by Laws 1987, c. 99, § 1, eff. Nov. 1, 1987.

§22-351. Verified application - Order - Authority of district attorney.

A. 1. Whenever the Attorney General considers it to be in the public interest to convene a grand jury with jurisdiction extending beyond the boundaries of a single county, he or she shall file a verified application with the Chief Justice of the Supreme Court, or with such Justice of the Supreme Court as is designated by rule to receive such application.

2. The application shall:

a. state that in the judgment of the Attorney General, the convening of a multicounty grand jury is necessary because of organized crime or public corruption, or both, involving more than one county of the state and that, in the judgment of the Attorney General, the investigation cannot be adequately performed by a county grand jury, and

b. specify those counties for which the multicounty grand jury is to be convened.

3. The Supreme Court, within fifteen (15) days, shall determine whether or not to issue an order convening the multicounty grand jury. If an order is issued convening said jury, the purpose or purposes shall be set forth in such order.

B. An order granting the convening of a multicounty grand jury issued under subsection A of this section shall:

1. Convene a multicounty grand jury having jurisdiction over any subject matter listed in Section 353 of this title which occurs in any single county or in multiple counties of this state approved by the Supreme Court and requested in the application by the Attorney General;

2. Designate a district court judge to be the presiding judge over such multicounty grand jury and provide that such judge shall, with respect to investigations, indictments, reports, and all other proper activities of said multicounty grand jury, have jurisdiction over all counties in the jurisdiction of said multicounty grand jury; and

3. Provide for such other incidental arrangements as may be necessary, including a determination of the share of costs attributable to the state.

C. The impaneling of a multicounty grand jury shall not be construed to diminish the responsibility or the authority of any district attorneys within their respective jurisdictions to investigate and prosecute organized crime or public corruption, or any other crime.

Added by Laws 1987, c. 99, § 2, eff. Nov. 1, 1987. Amended by Laws 2003, c. 388, § 1, eff. Nov. 1, 2003.

§22-352. Regular term - Extension.

A. The regular term of a multicounty grand jury shall be eighteen (18) months unless an order for discharge is entered earlier:

1. by the court after the multicounty grand jury determines by majority vote that its business is completed; or

2. by the court, on its own motion or on the motion of the Attorney General, upon a determination that termination is in the public interest.

B. The regular term of a multicounty grand jury may be extended by the presiding judge for a specified time period upon a verified petition by the Attorney General stating that an extension is necessary to conclude a grand jury inquiry begun prior to the expiration of the regular term. No jury so extended shall serve for more than twenty-four (24) months, unless permission is granted by the Supreme Court.

Added by Laws 1987, c. 99, § 3, eff. Nov. 1, 1987.

§22-353. Jurisdiction.

A. The jurisdiction of a multicounty grand jury impaneled under the Multicounty Grand Jury Act shall extend throughout the state, including but not limited to, a single county as designated in the State Supreme Court's order convening the multicounty grand jury.

B. The subject matter jurisdiction of the multicounty grand jury shall be limited to:

1. Murder;

2. Rape;

3. Bribery;

4. Extortion;

5. Arson;

6. Perjury;

7. Fraud;

8. Embezzlement;

9. Manufacturing, distribution, dispensing, possession or possession with intent to manufacture, distribute or dispense, a controlled dangerous substance, or any other violation of Section 2-101 et seq. of Title 63 of the Oklahoma Statutes;

10. Organized crime, which for purposes of the Multicounty Grand Jury Act, means any unlawful activity of an association trafficking in illegal goods or services, including but not limited to, gambling; loan sharking; controlled dangerous substances; labor racketeering, or other unlawful activities; or any continuing criminal conspiracy or other unlawful practice which has as its objectives improper governmental influence or economic gain through fraudulent or coercive practices;

11. Public corruption, which for purposes of the Multicounty Grand Jury Act, means any unlawful activity under color of or in connection with any public office or employment of any law

enforcement officer, public official, public employee, candidate for public office, or any agent thereof;

12. The registration or failure to register securities;

13. The offer or sale of securities;

14. The sale or purchase of goods or services by or for the state or any political subdivision thereof, or the misappropriation of funds belonging to or entrusted to the state or any political subdivision thereof; and

15. All character and grades of crime pursuant to Section 18 of Article II of the Oklahoma Constitution.

Added by Laws 1987, c. 99, § 4, eff. Nov. 1, 1987. Amended by Laws 1990, c. 232, § 3, eff. May 18, 1990; Laws 2003, c. 388, § 2, eff. Nov. 1, 2003.

§22-354. Powers - Document copies or reproductions.

A. The multicounty grand jury shall have the power to:

1. compel the attendance of witnesses;

2. compel the testimony of witnesses under oath;

3. take testimony of witnesses who have been granted immunity;

4. require the production of documents, records and other evidence;

5. obtain the initiation of civil and criminal contempt proceedings; and

6. exercise any investigative power of any grand jury of the state.

B. Any document produced before a multicounty grand jury may be copied or reproduced. Each statement, question, comment, or response of the presiding judge, the Attorney General or his designee, any witness, any grand juror or any other person which is made in the presence of the multicounty grand jury, except its deliberations and the vote of any juror, shall be stenographically recorded or transcribed, or both.

Added by Laws 1987, c. 99, § 5, eff. Nov. 1, 1987.

§22-355. Disclosures - Witness right to assistance of counsel.

A. Disclosure of matters occurring before the multicounty grand jury other than its deliberations and the vote of any juror may be used by the Attorney General in the performance of his duties. The Attorney General may disclose so much of the multicounty grand jury's proceedings to law enforcement agencies as he considers essential to the public interest and effective law enforcement. Otherwise, a grand juror, attorney, interpreter, stenographer, operator of any recording device, or any typist who transcribes recorded testimony may disclose matters occurring before the multicounty grand jury only when so directed by the court. All such persons shall be sworn to secrecy and shall be in contempt of court if they reveal any information which they are sworn to keep secret.

B. 1. A witness subpoenaed to appear and testify before a multicounty grand jury or to produce documents, records, or other evidence shall be entitled to the assistance of counsel, including assistance during such time as the witness is questioned in the presence of the multicounty grand jury.

2. If counsel desired by the witness is not available, the witness shall obtain other counsel within a reasonable time in order that the multicounty grand jury may proceed with its investigation.

3. Such counsel may be retained by the witness or shall be appointed in the case of any person unable to procure sufficient funds to obtain legal representation.

4. Such counsel shall be allowed to be present in the grand jury room during the questioning of the witness and shall be allowed to advise the witness but shall make no objections or arguments or otherwise address the multicounty grand jury or its legal advisor. The presiding judge shall have the same power to remove such counsel from the grand jury room as a judge has with respect to an attorney in any court proceeding. Violation of this subsection shall be punishable as contempt.

C. No witness shall be prohibited from disclosing his testimony before the multicounty grand jury except for cause shown in a hearing before the presiding judge. In no event may a witness be prevented from disclosing his testimony to his attorney.

Added by Laws 1987, c. 99, § 6, eff. Nov. 1, 1987.

§22-356. Jurisdictional limits - Investigations.

Nothing in the Multicounty Grand Jury Act shall be construed to limit the jurisdiction of the county grand juries or district attorneys nor shall an investigation by a multicounty grand jury be preemptive of a previously instituted investigation by another grand jury or agency having jurisdiction under the same subject matter unless good cause is shown.

Added by Laws 1987, c. 99, § 7, eff. Nov. 1, 1987.

§22-357. Presentation of evidence - Power to prosecute.

The presentation of evidence to a multicounty grand jury shall be made by the Attorney General or his designee. When an indictment or accusation for removal is returned, the Attorney General, his designee, or the designated district attorney in whose district the case is filed, shall be empowered to prosecute such indictment or accusation for removal in the district court where venue is proper.

Added by Laws 1987, c. 99, § 8, eff. Nov. 1, 1987.

§22-358. Venue - Consolidation of indictment.

A. Any indictment or accusation for removal by a multicounty grand jury shall be returned to the presiding judge without designation of venue. Thereupon, the judge, by order, shall

designate the county of venue for the purpose of trial. The judge, by order, may direct the consolidation of an indictment returned by a county grand jury with an indictment returned by a multicounty grand jury and fix venue for trial.

B. If a multicounty grand jury, pursuant to its investigation, learns of an offense for which it lacks jurisdiction to indict, the multicounty grand jury shall direct the Attorney General to inform the appropriate prosecutorial authority.

Added by Laws 1987, c. 99, § 9, eff. Nov. 1, 1987.

§22-359. Prospective juror list - Numbers and qualifications.

A. The Administrative Director of the Courts, upon receipt of the State Supreme Court order convening a multicounty grand jury, shall prepare a list of up to two hundred prospective jurors drawn from the current grand jury lists of the several counties designated in the order.

B. A multicounty grand jury shall be comprised of the same number of members having the same qualifications as provided by law for a county grand jury; provided, however, not more than one-half (1/2) of the members of a multicounty grand jury shall be residents of any one county.

C. Where an electronic jury management system has been authorized for use in the courts pursuant to Section 13 of this act, the Administrative Director of the Courts is authorized to select and summon multicounty grand jurors utilizing the automated functionality provided in the jury management system.

D. The process of impaneling the multicounty grand jury shall be conducted under the supervision and control of the judge presiding over the multicounty grand jury and may be conducted in the same manner as is provided by law for impanelment of county grand and petit juries using the electronic jury management system.

E. Whenever the approved electronic jury management system is used to randomly select and sequentially order juror names during any step in the multicounty grand jury selection process, the laws relating to the use of a jury wheel, and laws requiring paper ballots drawn from a jury wheel or a shaken box, shall not apply, including but not limited to those requirements set forth in Sections 301 through 363 and Sections 591 through 693 of this title.

Added by Laws 1987, c. 99, § 10, eff. Nov. 1, 1987. Amended by Laws 2004, c. 239, § 1, eff. July 1, 2004; Laws 2015, c. 242, § 1, emerg. eff. May 4, 2015.

§22-360. Summons for service.

A. The court clerk of the county in which a prospective member of a multicounty grand jury resides, upon receipt from the Administrative Director of the Courts of a list of prospective

multicounty grand jurors residing in the county, shall cause such prospective jurors to be summoned for service.

B. Where an electronic jury management system has been authorized for use in the courts pursuant to Section 13 of this act, the Administrative Director of the Courts is authorized to issue and serve summons to the panel of prospective multicounty grand jurors utilizing the approved system. The Administrative Director of the Courts shall develop a standard summons form for multicounty grand jurors. The Administrative Director of the Courts is authorized to utilize the jury management system to prepare the summons and shall mail the summons by first-class mail to every person whose name is drawn for the multicounty grand jury, not less than ten (10) days prior to the day the person is to appear.

Added by Laws 1987, c. 99, § 11, eff. Nov. 1, 1987. Amended by Laws 2015, c. 242, § 2, emerg. eff. May 4, 2015.

§22-361. Foreman.

From the persons selected to serve as multicounty grand jurors, the court shall appoint a foreman. The court shall also appoint a foreman when a person already appointed is discharged or excused before the multicounty grand jury is dismissed.

Added by Laws 1987, c. 99, § 12, eff. Nov. 1, 1987.

§22-362. Costs and expenses.

The costs and expenses incurred by any multicounty grand jury in the performance of its functions and duties shall be paid by the state out of funds appropriated to the Office of the Attorney General.

Added by Laws 1987, c. 99, § 13, eff. Nov. 1, 1987.

§22-363. Compensation and reimbursement.

Multicounty grand jurors shall be compensated as provided in Section 86 of Title 28 of the Oklahoma Statutes, and shall be reimbursed for necessary expenses on a per diem basis in the same manner and at the same rate as is prescribed by law for state employees.

Added by Laws 1987, c. 99, § 14, eff. Nov. 1, 1987.

§22-381. Indictment may be found by nine - Endorsement.

An indictment cannot be found without the concurrence of at least nine grand jurors. When so found it must be endorsed "A True Bill", and the endorsement must be signed by the foreman.

R.L.1910, § 5730.

§22-382. Charge dismissed, when.

If nine grand jurors do not concur in finding an indictment against a defendant who has been held to answer the original

information or the certified record of the proceedings before the magistrate transmitted to them, must be returned to the court, with an endorsement thereon, signed by the foreman, to the effect that the charge is dismissed.
R.L.1910, § 5731.

§22-383. Resubmission of charge.

The dismissal of the charge does not, however, prevent its being again submitted to a grand jury as often as the court may so direct. But without such direction it cannot be again submitted.
R.L.1910, § 5732.

§22-384. Names of witnesses endorsed on indictment.

When an indictment is found, the names of the witnesses examined before the grand jury must be endorsed thereon before the same is presented to the court, but a failure to so endorse the said names shall not be sufficient reason for setting aside the indictment if the district attorney or prosecuting officer will within a reasonable time, to be fixed by the court, endorse the names of the witnesses for the prosecution on the indictment. Provided that the names of witnesses examined before the grand jury on matters not concerning the indictment in question shall not be endorsed on the indictment relative to such case. The court or judge may, at any time, direct the names of additional witnesses for the prosecution to be endorsed on the indictment, and shall order that such names be furnished to the defendant or his counsel.
R.L.1910, § 5733; Laws 1967, c. 268, § 1, emerg. eff. May 8, 1967.

§22-385. Presentment and filing of indictment - Prohibition against disclosure.

An indictment, when found by the grand jury, must be presented by their foreman, in their presence, to the court, and must be filed with the clerk, and remain in the clerk's office as a public record. Upon the request of the grand jury's legal advisor, the presiding judge of the grand jury may order the indictment sealed until the defendant is arrested.
R.L.1910, § 5734. Amended by Laws 1961, p. 237, § 1; Laws 2012, c. 176, § 2, eff. Nov. 1, 2012.

§22-386. Proceedings where defendant at large.

When an indictment is found against a defendant who has not been previously arrested, and is not under bail, the same proceedings must be had as are prescribed against a defendant who fails to appear for arraignment.
R.L.1910, § 5735.

§22-387. Forms and rules of pleading.

All forms of pleading in criminal actions, and rules by which the sufficiency of pleadings is to be determined are those prescribed by this code.
R.L.1910, § 5736.

§22-388. Indictment or information is first pleading.
The first pleading on the part of the state is the indictment or information.
R.L.1910, § 5737.

§22-401. Requisites of indictment or information.
The indictment or information must contain:
1. The title of the action, specifying the name of the court to which the indictment or information is presented, and the names of the parties.
2. A statement of the acts constituting the offense, in ordinary and concise language, and in such manner as to enable a person of
R.L.1910, § 5738.

§22-402. Indictment or information must be certain and direct.
The indictment or information must be direct and certain as it regards:
1. The party charged.
2. The offense charged.
3. The particular circumstances of the offense charged, when they are necessary to constitute a complete offense.
R.L.1910, § 5739.

§22-403. Designation of defendant by fictitious name.
When a defendant is indicted or prosecuted by a fictitious or erroneous name, and in any stage of the proceedings his true name is discovered, it must be inserted in the subsequent proceedings, referring to the fact of his being charged by the name mentioned in the indictment or information.
R.L.1910, § 5740.

§22-404. Single offense to be charged - Different counts.
The indictment or information must charge but one offense, but where the same acts may constitute different offenses, or the proof may be uncertain as to which of two or more offenses the accused may be guilty of, the different offenses may be set forth in separate counts in the same indictment or information and the accused may be convicted of either offense, and the court or jury trying the cause may find all or either of the persons guilty of either of the offenses charged, and the same offense may be set forth in different forms or degrees under different counts; and where the offense may be

committed by the use of different means, the means may be alleged in the alternative in the same count.
R.L.1910, § 5741.

§22-405. Allegation of time.
The precise time at which the offense was committed need not be stated in the indictment or information; but it may be alleged to have been committed at any time before the finding thereof, except where the time is a material ingredient in the offense.
R.L.1910, § 5742.

§22-406. Misdescription of person injured or intended to be injured.
When an offense involves the commission of, or an attempt to commit a private injury, and is described with sufficient certainty in other respects to identify the act, an erroneous allegation as to the person injured, or intended to be injured, is not material.
R.L.1910, § 5743. d

§22-407. Words, how construed.
The words used in an indictment or information must be construed in their usual acceptation, in common language, except words and phrases defined by law, which are to be construed according to their legal meaning.
R.L.1910, § 5744.

§22-408. Statute not strictly pursued.
Words used in a statute to define a public offense, need not be strictly pursued in the indictment or information; but other words conveying the same meaning may be used.
R.L.1910, § 5745.

§22-409. Indictment or information, when sufficient.
The indictment or information is sufficient if it can be understood therefrom:
1. That it is entitled in a court having authority to receive it, though the name of the court be not stated.
2. That it was found by a grand jury or presented by the district attorney of the county in which the court was held.
3. That the defendant is named, or if his name cannot be discovered, that he is described by a fictitious name, with the statement that his true name is unknown.
4. That the offense was committed at some place within the jurisdiction of the court, except where the act, though done without the local jurisdiction of the county, is triable therein.
5. That the offense was committed at some time prior to the time of filing the indictment or information.

6. That the act or omission charged as the offense is clearly and distinctly set forth in ordinary and concise language, without repetition, and in such a manner as to enable a person of common understanding to know what is intended.

7. That the act or omission charged as the offense, is stated with such a degree of certainty, as to enable the court to pronounce judgment upon a conviction according to the right of the case.
R.L.1910, § 5746.

§22-411. Matters which need not be stated.

Neither presumptions of law, nor matters of which judicial notice is taken, need be stated in an indictment or information.
R.L.1910, § 5748.

§22-412. Pleading a judgment.

In pleading a judgment or other determination of, or proceeding before a court or officer of special jurisdiction it is not necessary to state the facts conferring jurisdiction; but the judgment or determination may be stated to have been duly given or made. The facts constituting jurisdiction, however, must be established on the trial.
R.L.1910, § 5749.

§22-413. Pleading private statute.

In pleading a private statute, or a right derived therefrom, it is sufficient to refer to the statute by its title and the day of its passage, and the court must thereupon take judicial notice thereof.

R.L. 1910, Sec. 5750.

§22-421. Arson - Omission or error in designating owner or occupant.

An omission to designate, or error in designating in indictment for arson, the owner or occupant of a building, shall not prejudice the proceedings thereupon, if it appears that upon the whole description given of the building, it is sufficiently identified to enable the prisoner to prepare his defense.
R.L.1910, § 2604.

§22-422. Libel, indictment or information for.

An indictment or information for libel need not set forth any extrinsic facts for the purpose of showing the application to the party libeled of the defamatory matter on which the indictment or information is founded, but it is sufficient to state generally that

the same was published concerning him, and the fact that it was so published must be established on the trial.
R.L.1910, § 5751.

§22-423. Forgery, misdescription of forged instrument immaterial, when.

When an instrument, which is the subject of an indictment or information for forgery, has been destroyed or withheld by the act or procurement of the defendant, and the fact of the destruction or withholding is alleged in the indictment or information and established on the trial, the misdescription of the instrument is immaterial.
R.L.1910, § 5752.

§22-424. Perjury, indictment or information for.

In an indictment or information for perjury, or subornation of perjury, it is sufficient to set forth the substance of the controversy or matter in respect to which the offense was committed, and in what court or before whom the oath alleged to be false was taken; and that the court or person before whom it was taken had authority to administer it, with proper allegations of the falsity of the matter on which the perjury is assigned; but the indictment or information need not set forth the pleadings, record, or proceedings with which the oath is connected, nor the commission or authority of the court or person before whom the perjury was committed.
R.L.1910, § 5753.

§22-425. Larceny or embezzlement, indictment or information for.

In an indictment or information for the larceny or embezzlement of money, bank notes, certificates of stock or valuable securities, or for a conspiracy to cheat and defraud a person of any such property, it is sufficient to allege the larceny or embezzlement, or the conspiracy to cheat and defraud, to be of money, bank notes, certificates of stock or valuable securities, without specifying the coin, number, denomination or kind thereof.
R.L.1910, § 5754.

§22-426. Obscene literature, indictment or information for handling.

An indictment or information for exhibiting, publishing, passing, selling or offering to sell, or having in possession with such intent, any lewd or obscene book, pamphlet, picture, print, card, paper or writing, need not set forth any portion of the language used or figures shown upon such book, pamphlet, picture, print, card, paper or writing, but it is sufficient to state generally the fact of the lewdness or obscenity thereof.
R.L.1910, § 5755. d

§22-431. Several defendants.
Upon an indictment or information against several defendants, any one or more may be convicted or acquitted.
R.L.1910, § 5756.

§22-432. Accessories and principals in felony.
The distinction between an accessory before the fact and a principal, and between principals in the first and second degree, in cases of felony, is abrogated, and all persons concerned in the commission of a felony, whether they directly commit the act constituting the offense, or aid and abet in its commission, though not present, must be prosecuted, tried and punished as principals, and no additional facts need be alleged in any indictment or information against such an accessory than are required in an indictment or information against his principal.
R.L. 1910, Sec. 5757.

§22-433. Accessory tried independently of principal.
An accessory to the commission of a felony may be prosecuted, tried and punished, though the principal felon be neither prosecuted nor tried, and though the principal may have been acquitted.
R.L.1910, § 5758.

§22-434. Compounding a crime - Separate prosecution.
A person may be prosecuted for having, with the knowledge of the commission of a public offense, taken money or property of another, or a gratutiy or reward, or an engagement or promise therefor, upon the agreement or understanding, express or implied, to compound or conceal the offense, or to abstain from a prosecution therefor, or to withhold any evidence thereof, though the person guilty of the original offense have not been indicted or tried.
R.L.1910, § 5759.

§22-436. Charging of two or more defendants in same indictment or information - Counts.
Two or more defendants may be charged in the same indictment or information if they are alleged to have participated in the same act or transaction or in the same series of acts or transactions

constituting an offense or offenses. Such defendants may be charged in one or more counts together or separately, provided that all of the defendants charged together in the same indictment or information are alleged to have participated in all of the same acts or transactions charged.
Laws 1968, c. 311, § 1.

§22-437. Singular to include the plural.
All laws in this chapter wherein the singular of words is used are hereby amended to include the plural of such words to give effect to the purpose of this act.
Laws 1968, c. 311, § 2.

§22-438. Trial of two or more indictments or informations.
The court may order two or more indictments or informations or both to be tried together if the offenses and the defendants, if there is more than one, could have been joined in a single indictment or information. The procedure shall be the same as if the prosecution was under such single indictment or information.
Laws 1968, c. 311, § 3.

§22-439. Relief from prejudicial joinder.
If it appears that a defendant or the state is prejudiced by joinder of offenses or of defendants in an indictment or information or by such joinder for trial together, the court shall order an election or separate trial of counts, grant a severance of defendants, or provide whatever other relief justice requires.
Laws 1968, c. 311, § 4.

§22-440. Repeal of conflicting laws.
All laws or parts of laws in conflict herewith are hereby repealed.
Laws 1968, c. 311, § 5.

§22-441. Indictments - When and where transferred.
The grand jury of each county in the state is hereby empowered and authorized to investigate all felonies and misdemeanors committed in their respective jurisdictions; and upon the filing of an indictment in the district court, which charges an offense over which such court has no jurisdiction, the judge of such court shall as soon as convenient, make an order transferring the same to such inferior court as may have jurisdiction to try the offense therein charged, stating in such order the cause transferred, and to what court transferred.
R.L.1910, § 5551.

§22-442. Records to be certified to proper court - Costs.

It shall be the duty of the clerk of the district court, without delay, to deliver the indictment in all cases transferred, together with all the papers relating to each case, to the proper court or justice of the peace, as directed in the order of transfer; and he shall accompany each case with a certified copy of all the proceedings taken therein in the district court, and also with a bill of the costs that have accrued therein in the district court, and the said costs shall be collected in the court in which said cause is tried, in the same manner as other costs are collected in criminal cases.
R.L.1910, § 5552.

§22-443. Entry on docket - Process and trial.

All cases transferred from the district court shall be entered on the docket of the court to which they are transferred, and all process thereon shall be issued, and the defendant tried in the same manner as if the cause had originated in the court to which they have been transferred.
R.L.1910, § 5553.

§22-444. Retransfer in case of error.

When a cause has been improperly transferred to a court which has no jurisdiction of the same, the court to which it has been transferred shall order it to be retransferred to the proper court, and the same proceedings shall be had as in the case of original transfer. In such case the defendant and the witnesses shall be held bound to appear before the court to which the case has been retransferred, the same as they were bound to appear before the court so transferring the same.
R.L.1910, § 5554.

§22-445. Transfer to county of proper venue.

In all criminal cases pending in any county where the venue properly lies in another county, the court may, upon motion of the county attorney, or upon its own motion, transfer such cause to the county of proper venue; such transfer, in all respects, shall be made in the manner provided by law.
R.L.1910, § 5555.

§22-451. Arraignment.

When the indictment or information is filed, the defendant must be arraigned thereon before the court in which it is filed, if triable therein; if not, before the court to which it is removed or transmitted.
R.L.1910, § 5760.

§22-452. Defendant must appear personally, when.

If the indictment or information is for a felony the defendant must be personally present, but if for a misdemeanor only, his personal appearance is unnecessary, and he may appear upon the arraignment by counsel.
R.L.1910, § 5761.

§22-453. Officer to bring defendant before court.
When his personal appearance is necessary, if he be in custody, the court may direct the officer in whose custody he is to bring him
R.L.1910, § 5762.

§22-454. Bench warrant to issue, when.
If the defendant has been discharged on bail, or have deposited money instead thereof, and does not appear to be arraigned, when his personal attendance is necessary, the court in addition to the forfeiture of the undertaking of bail or of the money deposited, may direct the clerk to issue a bench warrant for his arrest.
R.L.1910, § 5763.

§22-455. Bench warrant may issue into one or more counties.
The clerk, on the application of the district attorney, may, accordingly, at any time after the order, whether the court be sitting or not, issue a bench warrant in one or more counties.
R.L.1910, § 5764.

§22-456. Bench warrant, form of, in case of felony.
The bench warrant must, if the offense is a felony, be substantially in the following form:
County of.....
State of Oklahoma,
To any sheriff, constable, policeman or marshal in this state:
An indictment having been found (or information filed) on the ..... day of ..... , A. D., 19... , in the district court in and for the county of ..... , charging C. D. with the crime of ..... , (designating it generally) you are therefore commanded forthwith to arrest the above named C. D., and bring him before the court (or before the court to which the indictment or information may have been removed, naming it) to answer said indictment or information; or if the court have adjourned for the term, that you deliver him into the custody of the sheriff of the county of .....
Given under my hand, with the seal of said court affixed this ..... day of ..... A. D., 19.....
By order of the court.
(Seal) E. F., Clerk.
R.L.1910, § 5765.

§22-456A. Bench warrant, fee for issuance of.

For the issuance of each bench warrant for a defendant's failure to pay court costs, fines, fees, or assessments in felony, misdemeanor, or traffic cases, the court clerk shall charge and collect a fee of Five Dollars ($5.00). The fee shall be included in the execution bond amount on the face of the bench warrant which is issued for the defendant's failure to pay and shall be in addition to the delinquent amount owed by the defendant. This fee shall be deposited in the court clerk's revolving fund pursuant to the provisions of Section 220 of Title 19 of the Oklahoma Statutes.
Added by Laws 1995, c. 132, § 1, eff. Nov. 1, 1995.

§22-457. Bench warrant in case of misdemeanor or bailable felony.

If the offense is a misdemeanor or a bailable felony, the bench warrant must be in a similar form, adding to the body thereof a direction to the following effect:

Or if he requires it that you take him before any magistrate in that county or in county in which you arrest him, that he may give bail to answer the indictment or information.
R.L.1910, § 5766.

§22-458. Court to fix amount of bail - Endorsement.

If the offense charged is bailable the court, upon directing the bench warrant to issue, must fix the amount of bail and an endorsement must be made on the bench warrant and signed by the clerk, to the following effect:

The defendant is to be admitted to bail in the sum of ..... Dollars.
R.L.1910, § 5767.

§22-459. Defendant held when offense not bailable.

The defendant, when arrested under a warrant for an offense not bailable, shall be held in custody by the sheriff of the county in which the indictment or information is filed. If the sheriff has contracted for the custody of prisoners in the county, such contractor shall be required to hold in custody any prisoner delivered to the contractor pursuant to this section.
R.L.1910, § 5768. Amended by Laws 2003, c. 199, § 4, eff. Nov. 1, 2003.

§22-460. Bench warrant served in any county.

The bench warrant may be served in any county in the same manner as a warrant of arrest, except that when served in another county it need not be endorsed by a magistrate of that county.
R.L.1910, § 5769.

§22-461. Taking bail in another county.

If the defendant is brought before a magistrate of another county for the purpose of giving bail, the magistrate must proceed in respect thereto, in the same manner as if the defendant had been brought before him upon a warrant of arrest, and the same proceedings may be had thereon.
R.L.1910, § 5770.

§22-462. Defendant committed or bail increased after indictment or information.

When the indictment or information is for a felony, and the defendant, before the finding thereof, has given bail for his appearance to answer the charge, the court to which the indictment or information is presented, or sent or removed for trial, may order the defendant to be committed to actual custody, either without bail, or unless he give bail in an increased amount, to be specified in the order.
R.L.1910, § 5771. R.L.1910, § 5771.

§22-463. Commitment order, execution of.

If the defendant is present when the order is made he must be forthwith committed accordingly. If he is not present, a bench warrant must be issued and proceeded upon in the manner provided in this chapter.
R.L.1910, § 5772.

§22-464. Repealed by Laws 1991, c. 238, § 37, eff. July 1, 1991.

§22-465. Arraignment made, how.

The arraignment must be made by the court, or by the clerk or district attorney, under its direction, and consists in reading the indictment or information to the defendant, and asking him whether he pleads guilty or not guilty thereto.
R.L.1910, § 5774.

§22-466. Name of defendant.

When the defendant is arraigned he must be informed that if the name by which he is prosecuted be not his true name, he must then declare his true name or be proceeded against by the name in the indictment or information.
R.L.1910, § 5775.

§22-467. Proceedings when defendant gives no other name.

If he gives no other name, the court may proceed accordingly.
R.L.1910, § 5776.

§22-468. Proceedings where another name given.

If he alleges that another name is his true name, the court must direct an entry thereof in the minutes of the arraignment, and the subsequent proceedings on the indictment or information may be had against him by that name, referring also to the name by which he is indicted or informed against.
R.L.1910, § 5777.

§22-469. Necessity for filing information after preliminary examination.

It shall not be necessary to file an information after the preliminary examination where the complaint or preliminary information satisfies the requirements for an information.
Laws 1968, c. 175, § 3, eff. Jan. 13, 1969.

§22-470. Time for arraignment upon charge of felony.

The arraignment of the defendant shall be held within thirty (30) days after the defendant is ordered held for trial upon a preliminary information charging the commission of a felony; provided, for good cause, the court may set a later date.
Laws 1968, c. 175, § 4, eff. Jan. 13, 1969.

§22-471. Short title.

Sections 1 through 12 of this act shall be known and may be cited as the "Oklahoma Drug Court Act".
Added by Laws 1997, c. 359, § 1, eff. July 1, 1997.

§22-471.1. Authorization of drug court programs.

A. For purposes of this act, "drug court", "drug court program" or "program" means an immediate and highly structured judicial intervention process for substance abuse treatment of eligible offenders which expedites the criminal case, and requires successful completion of the plea agreement.

B. Each district court of this state is authorized to establish a drug court program pursuant to the provisions of this act, subject to availability of funds. Juvenile drug courts may be established based upon the provisions of this act; provided, however, juveniles shall not be held, processed, or treated in any manner which violates any provision of Title 10A of the Oklahoma Statutes.

C. Drug court programs shall not apply to any violent criminal offense. Eligible offenses may further be restricted by the rules of the specific drug court program. Nothing in this act shall be construed to require a drug court to consider every offender with a treatable condition or addiction, regardless of the fact that the controlling offense is eligible for consideration in the program. Traditional prosecution shall be required where an offender is determined not appropriate for the drug court program.

D. Drug court programs shall require a separate judicial processing system differing in practice and design from the traditional adversarial criminal prosecution and trial systems. Whenever possible, a drug court team shall be designated consisting of a judge to administer the program, a district attorney, a defense attorney, and other persons designated by the drug court team who shall have appropriate understanding of the goals of the program and of the appropriate treatment methods for the various conditions. The assignment of any person to the drug court team shall not preclude the assigned person from performing other duties required in the course of their office or employment. The chief judge of the judicial district, or if the district has more than one chief judge than the presiding judge of the Administrative Judicial District, shall designate one or more judges to administer the drug court program. The assignment of any judge to a drug court program or the designation of a drug court docket shall not mandate the assignment of all substance abuse related cases to the drug court docket or the program; however, nothing in this act shall be construed to preclude the assignment of all criminal cases relating to substance abuse or drug possession as provided by the rules established for the specific drug court program.

E. When a drug court program is established, the arresting officer shall file the criminal case record for potentially eligible offenders with the district attorney within four (4) days of the arrest. The district attorney shall file an information in the case within twenty-four (24) hours of receipt of the criminal case record when the offender appears eligible for consideration for the program. The information may be amended as necessary when an offender is denied admittance into the drug court program or for other purposes as provided in Section 304 of this title. Any person arrested upon a warrant for his or her arrest shall not be eligible for the drug court program without the approval of the district attorney. Any criminal case which has been filed and processed in the traditional manner shall be cross-referenced to a drug court case file by the court clerk, if the case is subsequently assigned to the drug court program. The originating criminal case file shall remain open to public inspection. The judge shall determine what information or pleadings are to be retained in the drug court case file, which shall be closed to public inspection.

F. The court may request assistance from the Department of Mental Health and Substance Abuse Services which shall be the primary agency to assist in developing and implementing a drug court program or from any state or local agency in obtaining the necessary treatment services which will assure maximum opportunity for successful treatment, education, and rehabilitation for offenders admitted to the program. All participating state and local agencies

are directed to coordinate with each other and cooperate in assisting the district court in establishing a drug court program.

G. Each drug court program shall ensure, but not be limited to:

1. Strong linkage between participating agencies;

2. Access by all participating parties of a case to information on the progress of the offender;

3. Vigilant supervision and monitoring procedures;

4. Random substance abuse testing;

5. Provisions for noncompliance, modification of the treatment plan, and revocation proceedings;

6. Availability of residential treatment facilities and outpatient services;

7. Payment of court costs, treatment costs, supervision fees, and program user fees by the offender;

8. Methods for measuring application of disciplinary sanctions, including provisions for:

a. increased supervision,

b. urinalysis testing,

c. intensive treatment,

d. short-term confinement not to exceed five (5) days,

e. recycling the offender into the program after a disciplinary action for a minimum violation of the treatment plan,

f. reinstating the offender into the program after a disciplinary action for a major violation of the treatment plan, and

g. revocation from the program; and

9. Methods for measuring performance-based effectiveness of each individual treatment provider's services.

H. All drug court programs shall be required to keep reliable data on recidivism, relapse, restarts, sanctions imposed, and incentives given.

I. Nothing in this section shall prohibit any county from establishing a drug court for misdemeanor offenses. Such misdemeanor drug courts shall follow the rules and regulations of felony drug courts except that the penalty for revocation shall not exceed one (1) year in the county jail or the maximum penalty for the misdemeanor allowed by statute, whichever is less. The Department of Mental Health and Substance Abuse Services shall provide technical assistance to the counties that establish misdemeanor drug courts. Added by Laws 1997, c. 359, § 2, eff. July 1, 1997. Amended by Laws 2008, c. 37, § 1, eff. Nov. 1, 2008; Laws 2009, c. 234, § 131, emerg. eff. May 21, 2009; Laws 2016, c. 222, § 1, eff. Nov. 1, 2016.

§22-471.2. Eligibility and request for drug court program.

A. The opportunity for review of an offender for a drug court program shall occur at any time prior to disposition of the case and

sentencing of the offender, including sentencing on a petition to revoke a suspended sentence or any probation violation. When a drug court is established, the following information shall be initially reviewed by the sheriff or designee, if the offender is held in a county jail, or by the chief of police or designee, if the offender is held in a city jail:

1. The offender's arrest or charge does not involve a crime of violence against any person, unless there is a specific treatment program in the jurisdiction designed to address domestic violence and the offense is related to domestic violence and substance abuse;

2. The offender has no prior felony conviction in this state or another state for a violent offense within the last ten (10) years, except as may be allowed in a domestic violence treatment program authorized by the drug court program. It shall be sufficient for this paragraph that a criminal history records name search was conducted and indicated no apparent violent offense;

3. The offender's arrest or charge does not involve a violation of the Trafficking In Illegal Drugs Act;

4. The offender has committed a felony offense; and

5. The offender:

a. admits to having a substance abuse addiction,

b. appears to have a substance abuse addiction,

c. is known to have a substance abuse addiction,

d. the arrest or charge is based upon an offense eligible for the drug court program, or

e. is a person who has had an assessment authorized by Section 3-704 of Title 43A of the Oklahoma Statutes or drug court investigation and the assessment or investigation recommends the drug court program.

B. If it appears to the reviewing officer that the offender may be potentially eligible for the drug court program based upon a review of the information in subsection A of this section, the offender shall be given an eligibility form which may be voluntarily completed by the offender, and the reviewing officer shall file the criminal case record within the time prescribed in subsection E of Section 471.1 of this title. The offender shall not automatically be considered for the program based upon this review. The offender must request consideration for the drug court program as provided in subsection C of this section and shall have approval from the district attorney before being considered for the drug court program. The eligibility form shall describe the drug court program for which the offender may be eligible, including, but not limited to:

1. A full description of the drug court process and investigation;

2. A general explanation of the roles and authority of the supervising staff, the district attorney, the defense attorney, the

treatment provider, the offender, and the judge in the drug court program;

3. A clear statement that the drug court judge may decide after a hearing not to consider the offender for the drug court program and in that event the offender will be prosecuted in the traditional manner;

4. A clear statement that the offender is required, before consideration in the program, to enter a guilty plea as part of a written plea agreement;

5. A clear statement that the plea agreement will specify the offense to which the guilty plea will be entered and will state any penalty to be imposed for the offense, both in the event of a successful completion of the drug court program, and in the event of a failure to complete the program;

6. A clear statement that the offender must voluntarily agree to:

a. waive the right to a speedy trial,

b. waive the right to a preliminary hearing,

c. the terms and conditions of a treatment plan, and

d. sign a performance contract with the court;

7. A clear statement that the offender, if accepted into the drug court program, may not be incarcerated for the offense in a state correctional institution or jail upon successful completion of the program;

8. A clear statement that during participation in the drug court program should the offender fail to comply with the terms of the agreement, the offender may be sanctioned to serve a term of confinement of six (6) months in an intermediate revocation facility operated by the Department of Corrections. An offender shall not be allowed to serve more than two separate terms of confinement in an intermediate revocation facility;

9. A clear statement that during participation in the drug court program should the offender:

a. fail to comply with the terms of the agreements,

b. be convicted of a misdemeanor offense which reflects a propensity for violence,

c. be arrested for a violent felony offense, or

d. be convicted of any felony offense,

the offender may be required, after a court hearing, to be revoked from the program and sentenced without trial pursuant to the punishment provisions of the negotiated plea agreement; and

10. An explanation of the criminal record retention and disposition resulting from participation in the drug court program following successful completion of the program.

C. 1. The offender may request consideration for the drug court program as follows:

a. if the offender is incarcerated, the offender must sign and complete the eligibility form and return it to the sheriff, if the offender is held in the county jail; or to the chief of police, if the offender is held in a city jail. The sheriff or chief of police, upon receipt of the eligibility form, shall file the form with the district attorney at the time of filing the criminal case record or at any time during the period of incarceration when the offender completes the form after the criminal case record has been filed, or

b. after release of the offender from incarceration, the offender must sign and complete the eligibility form and file it with the district attorney or the court, prior to or at the time of either initial appearance or arraignment.

2. Any offender desiring legal consultation prior to signing or completing the form for consideration in a drug court program shall be referred to the defense attorney of the drug court team, or a public defender, if the offender is indigent, or allowed to consult with private legal counsel.

3. Nothing contained in the provisions of this subsection shall prohibit the drug court from considering any offender deemed eligible for the program at any time prior to sentencing whose case has been prosecuted in the traditional manner, or upon a violation of parole or probation conditions relating to substance abuse, upon recommendation of the district attorney as provided in Section 471.8 of this title.

D. When an offender has filed a voluntary request to be considered for a drug court program on the appropriate form, the district attorney shall indicate his or her approval of the request by filing the form with the drug court judge. Upon the filing of the request form by the district attorney, an initial hearing shall be set before the drug court judge. The hearing shall be not less than three (3) work days nor more than five (5) work days after the date of the filing of the request form. Notice of the hearing shall be given to the drug court team, or in the event no drug court team is designated, to the offender, the district attorney, and to the public defender. The offender shall be required to notify any private legal counsel of the date and time of the hearing.

Added by Laws 1997, c. 359, § 3, eff. July 1, 1997. Amended by Laws 2009, c. 290, § 1, eff. Nov. 1, 2009; Laws 2012, c. 228, § 2, eff. Nov. 1, 2012; Laws 2016, c. 222, § 2, eff. Nov. 1, 2016; Laws 2018, c. 253, § 1, eff. Nov. 1, 2018.

§22-471.3. Initial hearing.

A. At the initial hearing for consideration of an offender for a drug court program, the district attorney shall determine whether or not:

1. The offender has approval to be considered for the drug court program;

2. The offender has been admitted to the program within the preceding five (5) years; provided, having been admitted to a drug court program within the previous five (5) years shall not make the offender ineligible for consideration; and

3. Any statutory preclusion, other prohibition, or program limitation exists and is applicable to considering the offender for the program.

The district attorney may object to the consideration of an offender for the drug court program at the initial hearing.

B. If the offender voluntarily consents to be considered for the drug court program, has signed and filed the required form requesting consideration, and no objection has been made by the district attorney, the court shall refer the offender for a drug court investigation as provided in Section 471.4 of this title, and set a date for a hearing to determine final eligibility for admittance into the program.

C. Upon any objection of the district attorney for consideration of an offender for the program, the court shall deny consideration of the offender's request for participation in the drug court program. Upon denial for consideration in the drug court program at the initial hearing, the criminal case shall proceed in the traditional manner. An objection by the district attorney and the subsequent denial of consideration of the offender for the program shall not preclude any future consideration of the offender for the drug court program with the approval of the district attorney.

Added by Laws 1997, c. 359, § 4, eff. July 1, 1997. Amended by Laws 2018, c. 253, § 2, eff. Nov. 1, 2018.

§22-471.4. Drug court investigation.

A. When directed by the drug court judge, the supervising staff for the drug court program shall make an investigation of the offender under consideration to determine whether or not the offender is a person who:

1. Would benefit from the drug court program; and

2. Is appropriate for the drug court program.

B. The drug court investigation shall be conducted through a standardized screening test and personal interview. A more comprehensive assessment may take place at the time the offender enters the treatment portion of the program and may take place at any time after placement in the drug court program. The investigation shall determine the original treatment plan which the offender will be required to follow, if admitted to the program. Any subsequent

assessments or evaluations by the treatment provider, if the offender is admitted to the program, may be used to determine modifications needed to the original treatment plan. The investigation shall include, but not be limited to, the following information:

1. The person's age and physical condition;
2. Employment and military service records;
3. Educational background and literacy level;
4. Community and family relations;
5. Prior and current drug and alcohol use;
6. Mental health and medical treatment history, including substance abuse treatment history;
7. Demonstrable motivation; and
8. Other mitigating or aggravating factors.

C. The drug court investigation may be conducted before or after the initial hearing for consideration but shall occur before the hearing for final determination of eligibility for the drug court program. When an offender is appropriate for admittance to the program, the supervising staff shall make a recommendation for the treatment program or programs that are available in the jurisdiction and which would benefit the offender and accept the offender. The investigation findings and recommendations for program placement shall be reported to the drug court judge, the district attorney, the offender, and the defense attorney prior to the next scheduled hearing.

D. The district attorney and the defense attorney for the offender shall independently review the findings and recommendations of the drug court investigation report. For an offender to remain eligible for consideration in the program, both the district attorney and the defense attorney must accept the recommended treatment plan, and shall negotiate the terms of the written plea agreement with all punishment provisions specified before the scheduled hearing date for determining final eligibility. Upon failure of the district attorney and defense attorney to negotiate the written plea agreement, the criminal case shall be withdrawn from the drug court program and processed in the traditional manner. The punishment provisions of the written plea agreement shall emphasize reparation to the victim, community, and state.

E. The hearing to determine final eligibility shall be set not less than three (3) work days nor more than seven (7) work days from the date of the initial hearing for consideration, unless extended by the court.

F. For purposes of this act, "supervising staff" means a Department of Corrections employee assigned to monitor offenders in the drug court program, a community provider assigned to monitor offenders in the program, a state or local agency representative or a certified treatment provider participating in the program, or a person designated by the judge to perform drug court investigations.

Added by Laws 1997, c. 359, § 5, eff. July 1, 1997. Amended by Laws 2018, c. 253, § 3, eff. Nov. 1, 2018.

§22-471.5. Admissibility of statements or evidence.

A. 1. Any statement, or any information procured therefrom, made by the offender to any supervising staff, which is made during the course of any drug court investigation conducted by the supervising staff pursuant to Section 5 of this act, and any report of the supervising staff's findings and recommendations to the court, the district attorney, or the defense counsel shall not be admissible in the criminal case pending against the offender.

2. Any statement, or any information procured therefrom, with respect to the specific offense for which the offender was arrested or is charged, which is made to any supervising staff subsequent to the granting of admission of the offender to the drug court program, shall not be admissible in the pending criminal case nor shall such be grounds for the revocation of an offender from the program.

3. In the event that an offender is denied admission to the drug court program or is subsequently revoked from the program, any information gained from the drug court investigation, any statements or information divulged during the drug court investigation or any treatment session shall not be used in the sentencing of the offender for the original criminal offense.

4. The restrictions provided in this section shall not preclude the admissibility of statements or evidence obtained by the state from independent sources.

B. 1. The offender, as consideration for entering the drug court program, must consent to a full and complete photographic record of property which was to be used as evidence in the pending criminal case. The photographic record shall be competent evidence of such property and admissible in any criminal action or proceeding as the best evidence.

2. After the photographic record is made, the property shall be returned as follows:

a. property, except that which is prohibited by law, shall be returned to its owner after proper verification of title,

b. the return to the owner shall be without prejudice to the state or to any person who may have a claim against the property, and

c. when a return is made to the owner, the owner shall sign, under penalty of perjury, a declaration of ownership, which shall be retained by the person in charge of the property at the police department or sheriff's office.

Added by Laws 1997, c. 359, § 6, eff. July 1, 1997.

§22-471.6. Final eligibility hearing - Acceptance into program - Duration of participation - Costs and fees - Driving privileges.

A. The drug court judge shall conduct a hearing as required by subsection E of Section 471.4 of this title to determine final eligibility by considering:

1. Whether or not the offender voluntarily consents to the program requirements;

2. Whether or not to accept the offender based upon the findings and recommendations of the drug court investigation authorized by Section 471.4 of this title;

3. Whether or not there is a written plea agreement, and if so, whether the terms and conditions of the written negotiated plea between the district attorney, the defense attorney, and the offender are appropriate and consistent with the penalty provisions and conditions of other similar cases;

4. Whether or not there is an appropriate treatment program available to the offender and whether or not there is a recommended treatment plan; and

5. Any information relevant to determining eligibility; provided, however, an offender shall not be denied admittance to any drug court program based upon an inability to pay court costs or other costs or fees.

B. At the hearing to determine final eligibility for the drug court program, the judge shall not grant any admission of any offender to the program when:

1. The required treatment plan and plea agreement have not been completed;

2. The program funding or availability of treatment has been exhausted;

3. The treatment program is unwilling to accept the offender;

4. The offender was ineligible for consideration by the nature of a violent offense at the time of arrest, and the charge has been modified to meet the eligibility criteria of the program; or

5. The offender is inappropriate for admission to the program, in the discretion of the judge.

C. At the final eligibility hearing, if evidence is presented that was not discovered by the drug court investigation, the district attorney or the defense attorney may make an objection and may ask the court to withdraw the plea agreement previously negotiated. The court shall determine whether to proceed and overrule the objection, to sustain the objection and transfer the case for traditional criminal prosecution, or to require further negotiations of the plea or punishment provisions. The decision of the judge for or against eligibility and admission shall be final.

D. When the court accepts the treatment plan with the written plea agreement, the offender, upon entering the plea as agreed by the parties, shall be ordered and escorted immediately into the program.

The offender must have voluntarily signed the necessary court documents before the offender may be admitted to treatment. The court documents shall include:

1. Waiver of the offender's rights to speedy trial;

2. A written plea agreement which sets forth the offense charged, the penalty to be imposed for the offense in the event of a breach of the agreement, and the penalty to be imposed, if any, in the event of a successful completion of the treatment program; provided, however, incarceration shall be prohibited when the offender completes the treatment program;

3. A written treatment plan which is subject to modification at any time during the program; and

4. A written performance contract requiring the offender to enter the treatment program as directed by the court and participate until completion, withdrawal, or removal by the court.

E. If admission into the drug court program is denied, the criminal case shall be returned to the traditional criminal docket and shall proceed as provided for any other criminal case.

F. At the time an offender is admitted to the drug court program, any bail or undertaking on behalf of the offender shall be exonerated.

G. The period of time during which an offender may participate in the active treatment portion of the drug court program shall be not less than six (6) months nor more than twenty-four (24) months and may include a period of supervision not less than six (6) months nor more than one (1) year following the treatment portion of the program. The period of supervision may be extended by order of the court for not more than six (6) months. No treatment dollars shall be expended on the offender during the extended period of supervision. If the court orders that the period of supervision shall be extended, the drug court judge, district attorney, the attorney for the offender, and the supervising staff for the drug court program shall evaluate the appropriateness of continued supervision on a quarterly basis. All participating treatment providers shall be certified by the Department of Mental Health and Substance Abuse Services and shall be selected and evaluated for performance-based effectiveness annually by the Department of Mental Health and Substance Abuse Services. Treatment programs shall be designed to be completed within twelve (12) months and shall have relapse prevention and evaluation components.

H. The drug court judge shall order the offender to pay court costs, treatment costs, drug testing costs, a program user fee not to exceed Twenty Dollars ($20.00) per month, and necessary supervision fees, unless the offender is indigent. The drug court judge shall establish a schedule for the payment of costs and fees. The cost for treatment, drug testing, and supervision shall be set by the treatment and supervision providers respectively and made part of the

court's order for payment. User fees shall be set by the drug court judge within the maximum amount authorized by this subsection and payable directly to the court clerk for the benefit and administration of the drug court program. Treatment, drug testing, and supervision costs shall be paid to the respective providers. The court clerk shall collect all other costs and fees ordered. The remaining user fees shall be remitted to the State Treasurer by the court clerk for deposit in the Department of Mental Health and Substance Abuse Services' Drug Abuse Education and Treatment Revolving Fund established pursuant to Section 2-503.2 of Title 63 of the Oklahoma Statutes. Court orders for costs and fees pursuant to this subsection shall not be limited for purposes of collection to the maximum term of imprisonment for which the offender could have been imprisoned for the offense, nor shall any court order for costs and fees be limited by any term of probation, parole, supervision, treatment, or extension thereof. Court orders for costs and fees shall remain an obligation of the offender until fully paid; provided, however, once the offender has successfully completed the drug court program, the drug court judge shall have the discretion to expressly waive all or part of the costs and fees provided for in this subsection if, in the opinion of the drug court judge, continued payment of the costs and fees by the offender would create a financial hardship for the offender. Offenders who have not fully paid all costs and fees pursuant to court order but who have otherwise successfully completed the drug court program shall not be counted as an active drug court participant for purposes of drug court contracts or program participant numbers.

I. Notwithstanding any other provision of law, if the driving privileges of the offender have been suspended, revoked, cancelled or denied by the Department of Public Safety and if the drug court judge determines that no other means of transportation for the offender is available, the drug court judge may enter a written order requiring the Department of Public Safety to stay any and all such actions against the Class D driving privileges of the offender; provided, the stay shall not be construed to grant driving privileges to an offender who has not been issued a driver license by the Department or whose Oklahoma driver license has expired, in which case the offender shall be required to apply for and be found eligible for a driver license, pass all examinations, if applicable, and pay all statutory driver license issuance or renewal fees. The offender shall provide proof of insurance to the drug court judge prior to the judge ordering a stay of any driver license suspension, revocation, cancellation, or denial. When a judge of a drug court enters a stay against an order by the Department of Public Safety suspending or revoking the driving privileges of an offender, the time period set in the order by the Department for the suspension or revocation shall continue to run during the stay. When an offender has successfully

completed the drug court program, the drug court judge shall maintain jurisdiction over the offender's driving privileges for one (1) year after the date on which the offender graduates from the drug court program.
Added by Laws 1997, c. 359, § 7, eff. July 1, 1997. Amended by Laws 1998, c. 53, § 1, eff. July 1, 1998; Laws 2001, c. 258, § 6, eff. July 1, 2001; Laws 2006, c. 202, § 1, eff. Nov. 1, 2006; Laws 2009, c. 290, § 2, eff. Nov. 1, 2009; Laws 2010, c. 238, § 1, eff. Nov. 1, 2010; Laws 2011, c. 96, § 1, eff. Nov. 1, 2011; Laws 2016, c. 238, § 1, eff. Nov. 1, 2016; Laws 2016, c. 393, § 1, eff. Nov. 1, 2016.

§22-471.7. Monitoring of treatment progress.

A. The designated drug court judge shall make all judicial decisions concerning any case assigned to the drug court docket or program. The judge shall require progress reports and a periodic review of each offender during his or her period of participation in the drug court program or for purposes of collecting costs and fees after completion of the treatment portion of the program. Reports from the treatment providers and the supervising staff shall be presented to the drug court judge as specified by the treatment plan or as ordered by the court.

B. Upon the written or oral motion of the treatment provider, the district attorney, the defense attorney, the defendant, or the supervising staff, the drug court judge shall set a date for a hearing to review the offender, the treatment plan, and the provisions of the performance contract. Notice shall be given to the offender and the other parties participating in the drug court case three (3) days before the hearing may be held.

C. The judge may establish a regular schedule for progress hearings for any offender in the drug court program. The district attorney shall not be required to attend regular progress hearings, but shall be required to be present upon the motion of any party to a drug court case.

D. The treatment provider, the supervising staff, the district attorney, and the defense attorney shall be allowed access to all information in the offender's drug court case file and all information presented to the judge at any periodic review or progress hearing.

E. The drug court judge shall recognize relapses and restarts in the program which are considered to be part of the rehabilitation and recovery process. The judge shall accomplish monitoring and offender accountability by ordering progressively increasing sanctions or providing incentives, rather than removing the offender from the program when relapse occurs, except when the offender's conduct requires revocation from the program. Any revocation from the drug court program shall require notice to the offender and other participating parties in the case and a revocation hearing. At the

revocation hearing, if the offender is found to have violated the conditions of the plea agreement or performance contract and disciplinary sanctions have been insufficient to gain compliance, the offender shall be revoked from the program and sentenced for the offense as provided in the plea agreement.

F. Upon application of any participating party to a drug court case, the judge may modify a treatment plan at any hearing when it is determined that the treatment is not benefiting the offender. The primary objective of the judge in monitoring the progress of the offender and the treatment plan shall be to keep the offender in treatment for a sufficient time to change behaviors and attitudes. Modification of the treatment plan requires a consultation with the treatment provider, supervising staff, district attorney, and the defense attorney in open court.

G. The judge shall be prohibited from amending the written plea agreement after an offender has been admitted to the drug court program. Nothing in this provision shall be construed to limit the authority of the judge to remove an offender from the program and impose the required punishment stated in the plea agreement after application, notice, and hearing.

Added by Laws 1997, c. 359, § 8, eff. July 1, 1997.

§22-471.8. Use of program as disciplinary sanction.

The drug court program may be utilized as a disciplinary sanction for a violation of a condition of parole related to substance abuse for eligible offenses, or in a case where the offender has been tried for an eligible offense in the traditional manner, given either a deferred or suspended sentence, and has violated a condition of the sentence. The judge shall not order an offender into treatment within the scope of any drug court program without prior approval from the designated drug court team, or the district attorney if no team is designated. Any judge having a criminal case assigned where drug court processing appears to be more appropriate for the offender, may request a review of the case by the drug court team, or if no team is designated, a review by the district attorney and the defense attorney. If both the district attorney and the defense attorney or offender agree, the case may be transferred to the drug court program with the approval of a designated drug court judge. After a case has been transferred to the drug court docket, it shall continue with the designated drug court judge until the offender is revoked or released from the program. The offenders whose cases have been transferred from a traditional criminal case docket to the drug court docket shall be required to have a drug court investigation and complete the drug court process prior to placement in any treatment program authorized by this act.

Added by Laws 1997, c. 359, § 9, eff. July 1, 1997.

§22-471.9. Successful completion of program.

A. When an offender has successfully completed the drug court program, the criminal case against the offender shall be:

1. Dismissed if the offense was a first felony offense; or

2. If the offender has a prior felony conviction, the disposition shall be as specified in the written plea agreement.

B. The final disposition order for a drug court case shall be filed with the judge assigned to the case, and shall indicate the sentence specified in the written plea agreement. A copy of the final disposition order for the drug court case shall also be filed in the original criminal case file under the control of the court clerk which is open to the public for inspection. Original criminal case files which are under the control of the court clerk and which are subsequently assigned to the drug court program shall be marked with a pending notation until a final disposition order is entered in the drug court case. After an offender completes the program, the drug court case file shall be sealed by the judge and may be destroyed after ten (10) years. The district attorney shall have access to sealed drug court case files without a court order.

C. A record pertaining to an offense resulting in a successful completion of a drug court program shall not, without the offender's consent in writing, be used in any way which could result in the denial of any employee benefit.

D. Successful completion of a drug court program shall not prohibit any administrative agency from taking disciplinary action against any licensee or from denying a license or privilege as may be required by law.

E. When the offender has successfully completed the drug court program, the drug court judge shall have the discretion to expressly waive all or part of the court costs and fees, driver license reinstatement fees, if applicable, and fines associated with the criminal case if, in the opinion of the drug court judge, continued payment of the court costs, fees and fines by the offender would create a financial hardship for the offender, including specifically the discretion to waive any requirement that fines and costs be satisfied by a person prior to that person being eligible for a provisional driver license pursuant to Section 6-212 of Title 47 of the Oklahoma Statutes.

Added by Laws 1997, c. 359, § 10, eff. July 1, 1997. Amended by Laws 2016, c. 393, § 2, eff. Nov. 1, 2016.

§22-471.10. Implementation of act.

A. For purposes of this act, the following state agencies shall jointly develop a standardized testing instrument with an appropriate scoring device for use by all the district courts in this state in implementing the Oklahoma Drug Court Act:

1. The Department of Corrections;

2. The Administrative Office of the Courts;
3. The Department of Mental Health and Substance Abuse Services;
4. The State Department of Health;
5. The State Department of Education;
6. The Office of Juvenile Affairs; and
7. The Oklahoma Department of Vocational and Technical Education.

B. The Administrative Office of the Courts shall promulgate rules, procedures, and forms necessary to implement the Oklahoma Drug Court Act to ensure statewide uniformity in procedures and forms. The Department of Mental Health and Substance Abuse Services is directed to develop a training and implementation manual for drug court programs with the assistance of the State Department of Health, the State Department of Education, the Oklahoma Department of Career and Technology Education, the Department of Corrections, the Office of Juvenile Affairs, and the Administrative Office of the Courts. The Department of Mental Health and Substance Abuse Services shall provide technical assistance to the district courts in implementing drug court programs.

C. All participating agencies shall promulgate rules as necessary to comply with the provisions of this act. Each district court shall establish rules for their jurisdiction upon implementation of a drug court program, pursuant to the provisions of this act.

Added by Laws 1997, c. 359, § 11, eff. July 1, 1997. Amended by Laws 2001, c. 33, § 21, eff. July 1, 2001.

§22-471.11. Deferred prosecution programs.

A. Nothing in this act shall preclude the establishment of substance abuse treatment programs in support of a deferred prosecution program authorized by Section 305.1 of Title 22 of the Oklahoma Statutes. Any such programs established after July 1, 1997, or in existence on July 1, 1997, may be known as a drug court program; provided, the program is not contrary to public interest or provision of law.

B. Any drug court program established and in existence prior to July 1, 1997, which is not limited to treatment programs in support of deferred prosecution programs shall be considered a drug court program, as defined in Section 471.1 of this title, for all purposes of the Oklahoma Drug Court Act.

Added by Laws 1997, c. 359, § 12, eff. July 1, 1997. Amended by Laws 1999, c. 348, § 5, eff. July 1, 1999.

§22-472. Anna McBride Act – Mental health courts.

A. This section shall be known and may be cited as the "Anna McBride Act".

B. Any district or municipal court of this state may establish a mental health court program pursuant to the provisions of this section, subject to the availability of funds.

C. The court may request assistance from the Department of Mental Health and Substance Abuse Services which shall be the primary agency to assist in developing and implementing a mental health court program.

D. For purposes of this section, "mental health court" means a judicial process that utilizes specially trained court personnel to expedite the case and explore alternatives to incarceration for offenders charged with criminal offenses other than a crime listed in paragraph 2 of Section 571 of Title 57 of the Oklahoma Statutes who have a mental illness or a developmental disability, or a co-occurring mental illness and substance abuse disorder. The district attorney's office may use discretion in the prosecution of those offenders specified in this subsection subject to the restrictions provided in subsection E of this section.

E. The court shall have the authority to exclude from mental health court any offender arrested or charged with any violent offense or any offender who has a prior felony conviction in this state or another state for a violent offense. Eligibility and entry by an offender into the mental health court program is dependent upon prior approval of the district attorney. Eligible offenses may further be restricted by the rules of the specific mental health court program. The court also shall have the authority to exclude persons from mental health court who have a propensity for violence.

F. The mental health court judge shall recognize relapses and restarts in the program which shall be considered as part of the rehabilitation and recovery process. The court shall accomplish monitoring and offender accountability by ordering progressively increasing sanctions or providing incentives, rather than removing the offender from the program when a violation occurs, except when the conduct of the offender requires revocation from the program. Any revocation from the mental health court program shall require notice to the offender and other participating parties in the case and a revocation hearing. At the revocation hearing, if the offender is found to have violated the conditions of the plea agreement or performance contract and disciplinary sanctions have been insufficient to gain compliance, the offender shall be revoked from the program and sentenced for the offense as provided in the plea agreement.

Added by Laws 2002, c. 285, § 1. Amended by Laws 2003, c. 76, § 1, eff. Nov. 1, 2003; Laws 2014, c. 180, § 1, eff. Nov. 1, 2014.

§22-491. Time to answer indictment or information.

If, on the arraignment, the defendant require it, he must be allowed until the next day, or such further time may be allowed him

as the court may deem reasonable, to answer the indictment or information.
R.L.1910, § 5778.

§22-492. Pleading to indictment or information.

If the defendant do not require time, as provided in the last section, or if he do, then on the next day, or at such further day as the court may have allowed him, he may, in answer to the arraignment, either move the court to set aside the indictment, or information or may demur or plead thereto.
R.L.1910, § 5779.

§22-493. Indictment or information set aside, when.

The indictment or information must be set aside by the court, in which the defendant is arraigned, and upon his motion in any of the following cases:

1. When it is not found, endorsed, presented or filed, as prescribed by the statutes or when the grand jury is not drawn and impaneled as provided by law, and that fact is known to the defendant at or before the time the jury is sworn to try the cause: Provided, that the defendant shall be conclusively presumed to know matters of record.

2. When the names of the witnesses examined before the grand jury are not made to appear on some part of the indictment, as provided in this chapter.

3. When a person is permitted to be present during the session of a grand jury while the vote on the finding of the indictment is being taken, or when it is shown that after the grand jury was first impaneled any member or members thereof, were discharged and their places filled by persons not regularly drawn from the jury list, as provided by law, and that they were admitted into the grand jury or took part in their deliberations, or that the grand jury was not impaneled anew as a whole body in open court.
R.L.1910, § 5780.

§22-494. Hearing on motion to set aside indictment or information.

To enable the defendant to make proof of the matter set up as grounds for setting aside the indictment, or information, the defendant may file his application before any court of record in the county, setting out and alleging that he is being proceeded against in a certain court, naming it, and setting out a copy of his motion and alleging, all under oath, that he is acting in good faith, and praying for an order to examine witnesses in support thereof. The court shall thereupon issue subpoenas to compel any or all witnesses desired to appear before him at the time named, and shall compel the witnesses to testify fully in regard to the matter and reduce the examination to writing, and certify to the same, and it may be used

to support the motion. The mover shall pay the costs of the proceeding. He shall notify the district attorney at least two clear days before he proceeds, of the time and place of taking such testimony, and the district attorney may be present and cross-examine the witnesses and if need be the case in the district court must be adjourned for that purpose.
R.L. 1910, § 5781.

§22-495. Witnesses on hearing to set aside indictment or information.

All witnesses, including grand jurors, shall be bound to answer fully, and shall not be answerable for the testimony so given in any way, except for the crime of perjury committed in giving such evidence. When a grand juror has been fully examined as to his qualifications to sit, and has answered under oath that he is qualified, and has been received by the court and permitted to act, his incompetency shall not thereafter be shown as a ground of objection to any indictment returned by that grand jury.
R.L.1910, § 5782.

§22-496. Objection to indictment or information waived, when.

If the motion to set aside the indictment or information be not made the defendant is precluded from afterwards taking the objections mentioned in the last section.
R.L.1910, § 5783.

§22-497. Motion to set aside indictment or information heard, when.

The motion must be heard at the time it is made unless for good cause the court postpone the hearing to another time.
R.L.1910, § 5784. R.L.1910, § 5784.

§22-498. Defendant to answer indictment, when.

If the motion be denied, the defendant must immediately answer to the indictment, either by demurring or pleading thereto.
R.L.1910, § 5785.

§22-499. Motion sustained - Defendant discharged, or bail exonerated, when.

If the motion be granted the court must order that the defendant, if in custody, be discharged therefrom, or if admitted to bail, that his bail be exonerated, or if he have deposited money instead of bail, that the money be refunded to him unless it direct that the case be resubmitted to the same or another grand jury.
R.L.1910, § 5786.

§22-500. Resubmission of case - Bail.

If the court direct that the case be resubmitted, the defendant, if already in custody, must so remain, unless he be admitted to bail; or if already admitted to bail, or money have been deposited instead thereof, the bail or money is answerable for the appearance of the defendant to answer a new indictment or information; and unless a new indictment or information is found before the next grand jury of the county is discharged, the court must, on the discharge of such grand jury, make the order prescribed in the preceding section.
R.L.1910, § 5787.

§22-501. Setting aside indictment or information not a bar.
An order to set aside an indictment or information as provided in this article is no bar to a further prosecution for the same offense.
R.L.1910, § 5788.

§22-502. Defendant's pleadings.
The only pleading on the part of the defendant is either a demurrer or a plea.
R.L.1910, § 5789.

§22-503. Defendant to plead in open court.
Both the demurrer and the plea must be put in open court, either at the time of the arraignment or at such other time as may be allowed to the defendant for that purpose.
R.L.1910, § 5790.

§22-504. Demurrer to indictment or information.
The defendant may demur to the indictment or information when it appears upon the face thereof either:
1. That the grand jury by which an indictment was found had no legal authority to inquire into the offense charged, by reason of its not being within the legal jurisdiction of the county.
2. That it does not substantially conform to the requirements of this chapter.
3. That more than one offense is charged in the indictment or information.
4. That the facts stated do not constitute a public offense.
5. That the indictment or information contains any matter which, if true, would constitute a legal justification or excuse of the offense charged, or other legal bar to the prosecution.
R.L.1910, § 5791.

§22-504.1. Motion to quash for insufficient evidence - Proof - Setting aside of indictment or information - Double jeopardy - Denial of motion.
A. In addition to a demurrer to the indictment or information, as provided in Section 504 of Title 22 of the Oklahoma Statutes, the

defendant may file a motion to quash for insufficient evidence in felony cases after preliminary hearing. The defendant must establish beyond the face of the indictment or information that there is insufficient evidence to prove any one of the necessary elements of the offense for which the defendant is charged.

B. The motion to quash for insufficient evidence must be set for hearing on a day certain at the time it is made and notice shall be provided to all parties.

C. The indictment or information must be set aside by the court, in which the defendant is formally arraigned, if judgment for the defendant on a motion to quash for insufficient evidence beyond the face of the information is granted.

D. An order to set aside an indictment or information on judgment for the defendant on a motion to quash for insufficient evidence, as provided in this section, shall not be a bar to a further prosecution for the same offense. A denial of the motion to quash is not a final order from which a defendant may appeal.
Added by Laws 1990, c. 261, § 4, emerg. eff. May 24, 1990.

§22-505. Demurrer to indictment or information, requisites of.

The demurrer must be in writing, signed either by the defendant or his counsel, and filed. It must distinctly specify the grounds of the objection to the indictment or information, or it must be disregarded.
R.L.1910, § 5792.

§22-506. Hearing on demurrer.

Upon the demurrer being filed, the objections presented thereby must be heard, either immediately or at such time as the court may appoint.
R.L.1910, § 5793.

§22-507. Ruling on demurrer.

Upon considering the demurrer, the court must give judgment either sustaining or overruling it, and an order to that effect must be entered upon the minutes.
R.L.1910, § 5794.

§22-508. Demurrer sustained, effect of.

If the demurrer is sustained, the judgment is final upon the indictment or information demurred to, and is a bar to another prosecution for the same offense, unless the court, being of opinion that the objection on which the demurrer is sustained may be avoided in a new indictment or information, direct the case to be resubmitted to the same or another grand jury, or that a new information be filed.
R.L.1910, § 5795.

§22-509. Demurrer sustained - Defendant discharged or bail exonerated, when.

If the court do not direct the case to be further prosecuted, the defendant, if in custody, must be discharged, or if admitted to bail, his bail is exonerated, or if he have deposited money instead of bail, the money must be refunded to him.
R.L.1910, § 5796.

§22-510. Proceedings if case resubmitted.

If the court direct that the case be further prosecuted, the same proceedings must be had thereon as are prescribed in this article.
R.L.1910, § 5797.

§22-511. Demurrer overruled, defendant to plead.

If the demurrer be overruled, the court must permit the defendant, at his election, to plead, which he must do forthwith, or at such time as the court may allow. If he does not plead, judgment may be pronounced against him.
R.L.1910, § 5798.

§22-512. Certain objections, how taken.

When the objections mentioned in Section 504 appear upon the face of the indictment or information, they can only be taken by demurrer, except that the objection to the jurisdiction of the court over the subject of the indictment or information, or that the facts stated do not constitute a public offense, may be taken after the arraignment of the defendant, or may be taken at the trial, under the plea of not guilty, and in arrest of judgment.
R.L.1910, § 5799; Laws 1968, c. 175, § 1, eff. Jan. 13, 1969.

§22-513. Pleas to indictment or information.

There are four kinds of pleas to an indictment or information. A plea of:

First, Guilty.

Second, Not guilty.

Third, Nolo contendere, subject to the approval of the court. The legal effect of such plea shall be the same as that of a plea of guilty, but the plea may not be used against the defendant as an admission in any civil suit based upon or growing out of the act upon which the criminal prosecution is based.

Fourth, A former judgment of conviction or acquittal of the offense charged, which must be specially pleaded, either with or without the plea of not guilty.
R.L.1910, § 5800; Laws 1976, c. 20, § 1, eff. Oct. 1, 1976.

§22-514. Pleas to be oral - Entry.

Every plea must be oral and must be entered upon the minutes of the court.
R.L.1910, § 5801.

§22-515. Form of plea.
The plea must be entered in substantially the following form:
1. If the defendant plead guilty:
The defendant pleads that he is guilty of the offense charged in this indictment or information.
2. If he plead not guilty:
The defendant pleads that he is not guilty of the offense charged in this indictment or information.
3. If he plead a former conviction or acquittal:
The defendant pleads that he has already been convicted (or acquitted, as the case may be), of the offense charged in this indictment or information, by the judgment of the court of ..... (naming it), rendered at ..... (naming the place), on the ..... day of .....
R.L.1910, § 5802.

§22-516. Plea of guilty.
A plea of guilty can in no case be put in, except by the defendant himself, in open court, unless upon an indictment or information against a corporation, in which case it can be put in by counsel.
R.L.1910, § 5803.

§22-517. Plea of guilty may be withdrawn.
The court may, at any time before judgment, upon a plea of guilty, permit it to be withdrawn, and a plea of not guilty substituted.
R.L.1910, § 5804.

§22-518. Plea of not guilty, issues on.
The plea of not guilty puts in issue every material allegation in the indictment or information.
R.L.1910, § 5805.

§22-519. Plea of not guilty, evidence under.
All matters of fact tending to establish a defense other than specified in third subdivision of Section 5710 may be given in evidence under the plea of not guilty.
R.L.1910, § 5806.

§22-520. Acquittal, what does not constitute.
If the defendant was formally acquitted on the ground of variance between the indictment or information and proof, or the indictment or

information was dismissed upon an objection to its form or substance, or in order to hold the defendant for a higher offense, without a judgment of acquittal, it is not an acquittal of the same offense.
R.L.1910, § 5807.

§22-521. Acquittal, what constitutes.

When, however, he was acquitted on the merits, he is deemed acquitted of the same offense, notwithstanding a defect in form or substance in the indictment or information on which he was acquitted.
R.L.1910, § 5808.

§22-522. Former acquittal or conviction as bar.

When the defendant shall have been convicted or acquitted upon an indictment or information, the conviction or acquittal is a bar to another indictment or information for the offense charged in the former, or for an attempt to commit the same, or for an offense necessarily included therein, of which he might have been convicted under that indictment or information.
R.L.1910, § 5809.

§22-523. Refusal to plead.

If the defendant refuse to answer the indictment or information by demurrer or plea, a plea of not guilty must be entered.
R.L.1910, § 5810.

§22-524. Preliminary hearing on felony indictment - Time for request - Witnesses - Dismissal.

Upon the return and filing of an indictment for a felony, the defendant so charged and arrested thereon, or the state, upon filing a request in writing, shall be entitled to have a copy of said indictment, certified by the court clerk, filed with a district, superior, common pleas or county judge, to be designated by the Judge presiding over the grand jury, and the defendant shall have a preliminary hearing thereon, before such designated judge, as a magistrate, as though said charge had been originally filed by verified information, with such magistrate, and under the law applying to the institution and conduct of prosecutions by information filed by the state. Any such request must be filed within ten (10) days after the filing of such indictment with the court clerk, or within ten (10) days after the defendant charged under said indictment has been arrested thereon, whichever is later. Upon such preliminary hearing, the members of the grand jury shall not be subpoenaed or called as a witness except upon an indictment charging the commission of the offense of perjury before the grand jury. The names of witnesses other than those endorsed on the indictment may be endorsed on the indictment prior to said preliminary hearing and such additional persons may be called as

witnesses at such preliminary hearing; provided, that this section shall not apply to motion to quash or vacate the grand jury proceedings or indictment upon other grounds. Provided, grand jurors may be called as rebuttal witnesses.

Upon application of the defendant or the state, after the filing of the copy of the indictment with the magistrate, as hereinabove provided, the court may order the indictment filed with the court clerk dismissed and any bond made in the case exonerated.
Laws 1961, p. 237, § 1; Laws 1968, c. 258, § 1, emerg. eff. April 29, 1968.

§22-561. Change of venue - When granted - Application - Affidavits and evidence - Removal as to part of defendants.

Any criminal cause pending in the district court may, at any time before the trial is begun, on the application of the defendant be removed from the county in which it is pending to some other county in said judicial district, whenever it shall appear in the manner hereinafter provided, that the minds of the inhabitants of the county in which the cause is pending are so prejudiced against the defendant that a fair and impartial trial cannot be had therein. Such order of removal may be made on the application of the defendant by petition, setting forth the facts, verified by affidavit, if reasonable notice of the application be given to the district attorney and the truth of the allegations in such petition be supported by the affidavits of at least three credible persons, who reside in said county. The district attorney may introduce counter affidavits to show that the persons making affidavits in support of the application are not credible persons and that the change is not necessary, and may examine the witnesses in support of said application in open court in regard to the truth of said application; and if it be made to appear by the affidavits and examination of witnesses that a fair and impartial trial cannot be had in the county, a change shall be granted and the order made by the court. When there are several defendants in any indictment or criminal prosecution, and the cause of the removal thereof exists only as to one or more of them, the other defendants shall be tried and all proceedings had against them in the county, in which the case is pending, in all respects as if no order of removal had been made as to any defendant.
R.L.1910, § 5811.

§22-562. Change of venue - Proceedings - Costs and expenses.

A. The order of removal from the county must be entered upon the minutes and the court clerk must thereupon make out, and within ten (10) days transmit to the county to which the action is removed, a certified copy of the order of removal and the record, and shall transmit the pleadings including the undertaking for the appearance of the defendant, and of the witnesses, and the cause must be

docketed and stand for trial within six (6) months from the date the cause was ordered removed.

B. If an order of removal is entered, all expenses incurred as a result of the action prior to the date of the order of removal shall be taxed as costs and shall remain payable to the court fund of the county from which the action was removed.

C. Except as otherwise provided by this section, the court fund of the county from which the action is removed shall be liable for the expense and charge of removing, delivering and keeping the prisoner, and the fees of jurors and witnesses in attendance during the trial, court reporter's fees, all fees and mileage of the sheriff, and the per diem of bailiffs during the time said cause is on trial, and such other expenses as may be lawfully incurred incident to the trial, which costs and expenses shall be approved by the Court Administrator of the Supreme Court of the State of Oklahoma and certified by the clerk of the court to which the action was transferred to the court clerk of the county from which the cause was removed and shall show the name of each person and the amount due to him.

D. On receipt of such certificate, the clerk of the court from which the action was transferred shall draw his warrants on the court fund for the total amount of costs allowed by the transferee court, payable to the order of the court fund of the transferee court subject to the order of the person entitled thereto, and forward the same to the clerk of the court where the cause was tried, who shall deposit it in the court fund.

E. If the court fund of the county from which the action was removed does not contain sufficient revenue to make payment to the transferee court, the court clerk of the payor county shall notify the Administrative Director of the courts who shall make payment of any deficiency in the amount due and owing to the transferee court from the Supreme Court Revolving Fund.

F. All fees not claimed two (2) years after having been received by the clerk of the transferee court, shall by him be returned to the clerk of the transferor court to be held in the court fund for the benefit of the owner for a period of one (1) year, and, if not claimed within that time, such fees shall become the property of the court fund of the county.

R.L. 1910, § 5817. Amended by Laws 1971, c. 155, § 1, emerg. eff. May 22, 1971; Laws 1994, c. 225, § 13, eff. July 1, 1994.

§22-563. Disposition of defendant on change of venue.

If the defendant is in custody, the order must provide for the removal of the defendant, by the sheriff of the county where he is imprisoned, to the custody of the proper officer of the county to which the action is removed, and he must be removed according to the terms of such order.

R.L.1910, § 5818.

§22-564. Change of venue - Court may require bail.

When the court has ordered a removal of the action, it may require the accused, if the offense be then bailable, to enter into an undertaking with good and sufficient sureties to be approved by the court, in such sum as the court may direct conditioned for his appearance in the court to which the action has been removed, on the first day of the next term thereof, and to abide the order of such court; and in default of such undertaking, a warrant shall be issued to the sheriff or other proper officer commanding him safely to keep the prisoner and at the proper time to convey him to the jail of the county where he is to be tried, there to be safely kept by the jailer thereof until discharged by due course of law.
R.L.1910, § 5819.

§22-565. Change of venue - Recognizance of witnesses.

When a removal of the action is allowed, the court may recognize the witnesses on the part of the state to appear before the court to which the defendant is to be tried.
R.L.1910, § 5820.

§22-566. Trial on change of venue - Records and papers.

The court to which the action is removed must proceed to trial and judgment therein the same in all respects as if the action had been commenced in such court. If it is necessary to have any of the original pleadings or other papers before such court, the court from which the action is removed must at any time upon the application of the district attorney or the defendant, order such papers or pleadings to be transmitted by the clerk, a certified copy thereof being retained.
R.L.1910, § 5821.

§22-576. Trial before judge other than one who conducted preliminary examination.

The judge who conducts the preliminary examination shall not try the case except with the consent of all parties.
Laws 1968, c. 175, § 2, eff. Jan. 13, 1969.

§22-581. Issue of fact arises, when.

An issue of fact arises,

1st, upon a plea of not guilty, or,

2nd, upon a plea of a former conviction or acquittal of the same offense.
R.L.1910, § 5822.

§22-582. Issue of fact, how tried.

Issues of fact must be tried by a jury.
R.L.1910, § 5823.

§22-583. Defendant must be present, when.

If the indictment or information is for a felony, the defendant must be personally present at the trial, but if for a misdemeanor not punishable by imprisonment, the trial may be had in the absence of the defendant; if, however, his presence is necessary for the purpose of identification, the court may, upon application of the district attorney, by an order or warrant, require the personal attendance of the defendant at the trial.
R.L.1910, § 5824.

§22-584. Postponement for cause.

When an indictment or information is called for trial, or at any time previous thereto, the court may, upon sufficient cause shown by either party, as in civil cases, direct the trial to be postponed to another day in the same or next term.
R.L.1910, § 5837.

§22-585. Postponement for investigation of claimed alibi.

Whenever testimony to establish an alibi on behalf of the defendant shall be offered in evidence in any criminal case in any court of record of the State of Oklahoma, and notice of the intention of the defendant to claim such alibi, which notice shall include specific information as to the place at which the defendant claims to have been at the time of the alleged offense, shall not have been served upon the district attorney at or before five (5) days prior to the trial of the case, upon motion of the district attorney, the court may grant a postponement for such time as it may deem necessary to make an investigation of the facts in relation to such evidence.
Laws 1935, p. 18, § 1.

§22-591. Same jurors in both civil and criminal actions.

The jurors duly drawn and summoned for the trial of civil actions may also be the jurors for the trial of criminal actions. In any district court where an electronic jury management system is implemented pursuant to Section 13 of this act, jurors may be selected and summoned utilizing the automated functionality provided in the jury management system. Whenever the court utilizes the approved jury management system to randomly select and sequentially order juror names during any step in the jury selection process, the laws relating to the use of a jury wheel, and laws requiring paper ballots drawn from a jury wheel or a shaken box, shall not apply, including but not limited to those requirements set forth in Sections 301 through 363 and Sections 591 through 693 of this title.

R.L. 1910, § 5825. Amended by Laws 2015, c. 242, § 3, emerg. eff. May 4, 2015.

§22-592. Trial jury - How formed.

Trial juries for criminal actions may also be formed in the same manner as trial juries in civil actions.
R.L.1910, § 5826.

§22-593. Clerk to prepare and deposit ballots.

At the opening of the court the clerk must prepare separate ballots, containing the names of the persons returned as jurors, which must be folded as nearly alike as possible, and so that the same cannot be seen, and must deposit them in a sufficient box.
R.L.1910, § 5827.

§22-594. Names of panel called, when - Attachment for absent jurors.

When the case is called for trial, and before drawing the jury, either party may require the names of all the jurors in the panel to be called, and the court in its discretion may order that an attachment issue against those who are absent; but the court may, in its discretion, wait or not for the return of the attachment.
R.L.1910, § 5828.

§22-595. Manner of drawing jury from box.

Before the name of any juror is drawn, the box must be closed and shaken, so as to intermingle the ballots therein. The clerk must then, without looking at the ballots, draw them from the box.
R.L.1910, § 5829.

§22-596. Disposition of ballots.

When the jury is completed, the ballots containing the names of the jurors sworn must be laid aside and kept apart from the ballots containing the names of the other jurors, until the jury so sworn is discharged.
R.L.1910, § 5830.

§22-597. Disposition of ballots - After jury discharged.

After the jury is so discharged, the ballots containing their names must be again folded and returned to the box, and so on, as often as a trial is had.
R.L.1910, § 5831.

§22-598. Disposition of ballot - When juror is absent or excused.

If a juror be absent when his name is drawn or be set aside, or excused from serving on the trial, the ballot containing his name must be folded and returned to the box as soon as the jury is sworn.
R.L.1910, § 5832.

§22-599. Jurors summoned to complete jury - Treated as original panel.

The names of persons summoned to complete the jury as provided in the chapter on "Jurors", must be written on distinct pieces of paper, folded each as nearly alike as possible, and so that the name cannot be seen, and must be deposited in the box before mentioned.
R.L.1910, § 5833.

§22-600. Drawing the jury.

The clerk must thereupon, under the direction of the court, publicly draw out of the box so many of the ballots, one after another, as are sufficient to form the jury.
R.L.1910, § 5834. R.L.1910, § 5834.

§22-601. Number of jurors - Oaths - Fines not exceeding Five Hundred Dollars.

The jury consists of twelve persons except that in misdemeanors it shall consist of six persons, chosen as prescribed by law, and sworn or affirmed well and truly to try and true deliverance to make between the State of Oklahoma and the defendant whom they shall have in charge, and a true verdict to give according to the evidence. Criminal cases wherein the punishment for the offense charged is by a fine only not exceeding Five Hundred Dollars ($500.00) shall be tried to the court without a jury.
R.L.1910, § 5835; Laws 1968, c. 371, § 1, eff. Jan. 13, 1969; Laws 1991, c. 15, § 3, eff. July 1, 1991.

§22-601a. Alternate jurors - Challenges - Oath or affirmation - Attendance upon trial.

Whenever in the opinion of the court the trial of a cause is likely to be a protracted one, the court may, immediately after the jury is impaneled and sworn, direct the calling of as many as two additional jurors to be known as "alternate juror". Such alternate jurors shall be drawn from the same source, and in the same manner, and have the same qualifications as regular jurors, and be subject to examination and challenge as such jurors, except that the state shall be allowed one peremptory challenge to each alternate juror, and all parties defendant shall together, or any one party defendant for and on behalf and by the consent of all parties defendant, be allowed one peremptory challenge to each alternate juror.

The alternate jurors shall be sworn (or affirmed) to well and truly try and true deliverance make of all issues finally submitted to them as jurors in said cause, if any such issue shall be so finally submitted to them, and shall be seated near the regular jurors with equal facilities for seeing and hearing the proceedings in the cause, shall attend at all times upon the trial of the cause

in company with the regular jurors and shall obey all orders and admonitions of the court; and if the regular jurors are ordered to be kept in the custody of an officer during the trial of the cause, the alternate jurors shall also be kept with the other jurors, and, except as hereinafter provided, shall be discharged upon the final submission of the cause to the jury.

If, before the final submission of the cause to the jury, a regular juror, or two regular jurors, shall be discharged because of illness, or shall die, the court shall order one or both alternate jurors, as circumstances may require, to take their places in the jury box. After an alternate juror is in the jury box, he shall be subject to the same regulations and requirements as other regular jurors.

Laws 1941, p. 88, § 2.

§22-601b. Protracted deliberations - Sequestration of alternate jurors.

If, upon final submission of the cause, the court is of the opinion that the deliberations may be protracted, the court may order the alternate juror or jurors to remain sequestered physically or by admonition not to discuss the case with any person or allow any person to discuss the case with a juror. In such event said alternate or alternates shall remain apart from the jury and not take part in its deliberations, but shall await the call of the court at some place designated by the court until such time as said alternate may be needed. In the event one or two of the twelve jurors shall, during the course of deliberations, be discharged because of illness, or die, the court shall order one or both alternate jurors to take their places in the jury room and deliberations shall then continue.

In the event the cause is a bifurcated, two-stage proceeding, the "final submission of the cause" shall occur when the jury retires to deliberate upon the sentence in the punishment or second stage of the proceedings. In such a trial the alternates shall not be excused prior to commencement of deliberations in the second stage.

Added by Laws 1988, c. 109, § 25, eff. Nov. 1, 1988.

§22-602. Affirmation.

Any juror who is conscientiously scrupulous of taking the oath above described, shall be allowed to make affirmation, substituting for the words "so help you God", at the end of the oath, the following: "This you do affirm under the pains and penalties of perjury".

R.L.1910, § 5836.

§22-621. Challenges classed.

A challenge is an objection made to the trial jurors, and is of two kinds:

1. To the panel.
2. To an individual juror.
R.L.1910, § 5838.

§22-622. Several defendants - Challenges.
When several defendants are tried together they cannot sever their challenges, but must join therein.
R.L.1910, § 5839.

§22-631. Panel defined.
The panel is a list of jurors returned by a sheriff, to serve at a particular court or for the trial of a particular action.
R.L.1910, § 5840.

§22-632. Challenge to panel.
A challenge to the panel is an objection made to all the trial jurors returned, and may be taken by either party.
R.L.1910, § 5841.

§22-633. Causes for challenge to panel.
A. A challenge to the panel can be founded only on a material departure from the forms prescribed by law, in respect to the drawing and return of the jury, or on the intentional omission of the sheriff to summon one or more of the jurors drawn from which the defendant has suffered material prejudice.
B. In any district court where an electronic jury management system is implemented pursuant to Section 13 of this act, jurors may be selected and summoned utilizing the automated functionality provided in the jury management system. Use of an electronic jury management system shall not be grounds for a challenge to a panel based on a material departure or irregularity. Whenever the court utilizes the approved jury management system to randomly select and sequentially order juror names during any step in the jury selection process, the laws relating to the use of a jury wheel, and laws requiring paper ballots drawn from a jury wheel or a shaken box, shall not apply, including but not limited to those requirements set forth in Sections 301 through 363 and Sections 591 through 693 of this title.
R.L. 1910, § 5842. Amended by Laws 2015, c. 242, § 4, emerg. eff. May 4, 2015.

§22-634. When taken - Form and requisites.
A challenge to the panel must be taken before a jury is sworn, and must be in writing, specifying plainly and distinctly the facts constituting the ground of challenge.
R.L.1910, § 5843.

§22-635. Issue on the challenge - Trying sufficiency.

If the sufficiency of the facts alleged as a ground of challenge be denied, the adverse party may except to the challenge. The exception need not be in writing, but must be entered upon the minutes of the court, and thereupon the court must proceed to try the sufficiency of the challenge, assuming the facts alleged therein to be true.

R.L.1910, § 5844.

§22-636. Challenge and exception may be amended or withdrawn.

If, on the exception, the court deem the challenge sufficient, it may, if justice require it, permit the party excepting to withdraw his exception, and to deny the facts alleged in the challenge. If the exception be allowed, the court may in like manner, permit an amendment of the challenge.

R.L.1910, § 5845.

§22-637. Denial of challenge - Trial of fact questions.

If the challenge is denied the denial may, in like manner, be oral and must be entered upon the minutes of the court, and the court must proceed to try the questions of fact.

R.L.1910, § 5846.

§22-638. Trial of challenge.

Upon the trial of the challenge, the officers, whether judicial or ministerial, whose irregularity is complained of, as well as any other persons, may be examined to prove or disprove the facts alleged as the ground of challenge.

R.L.1910, § 5847.

§22-639. Bias of officer, challenge for.

When the panel is formed from persons whose names are not drawn as jurors, a challenge may be taken to the panel on account of any bias of the officer who summoned them, which would be good ground of challenge to a juror. Such challenge must be made in the same form, and determined in the same manner as if made to a juror.

R.L.1910, § 5848.

§22-640. Procedure after decision of challenge.

If, upon an exception to the challenge, or a denial of the facts, the challenge be allowed, the court must discharge the jury, and another jury can be summoned for the same term forthwith from the body of the county or subdivision; or the judge may order a jury to be drawn and summoned in the regular manner. If it be disallowed, the court must direct the jury to be impaneled.

R.L.1910, § 5849.

§22-651. Defendant to be informed of right to challenge.

When twelve men are called as jurors, the defendant must be informed by the court or under its direction, of his right to challenge the jurors, and that he must do so before the jury is sworn to try the cause.

R.L.1910, § 5850.

§22-652. Classes of challenge to individual.

A challenge to an individual juror is either:

First, Peremptory; or,

Second, For cause.

R.L.1910, § 5851.

§22-653. When challenge taken.

It must be taken when the jury is full, and as soon as one person is removed by challenge, another must be put in his place, until the challenges are exhausted or waived. The court for good cause shown may permit a juror to be challenged after he is sworn to try the cause, but not after the testimony has been partially heard.

R.L.1910, § 5852.

§22-654. Peremptory challenge defined.

A peremptory challenge may be taken by either party, and may be oral. It is an objection to a juror for which no reason need be given, but upon which the court must excuse him.

R.L.1910, § 5853.

§22-655. Peremptory challenges - Number allowed.

In all criminal cases the prosecution and the defendant are each entitled to the following peremptory challenges: Provided, that if two or more defendants are tried jointly they shall join in their challenges; provided, that when two or more defendants have inconsistent defenses they shall be granted separate challenges for each defendant as hereinafter set forth.

First. In prosecutions for first degree murder, nine jurors each.

Second. In other felonies, five jurors each.

Third. In all nonfelony prosecutions, three jurors each.

R.L.1910, § 5854. Amended by Laws 1975, c. 77, § 1, eff. Oct. 1, 1975.

§22-656. Challenge for cause.

A challenge for cause may be taken either by the state or the defendant.

R.L.1910, § 5855.

§22-657. Challenges for cause classified.

It is an objection to a particular juror and is either:

1. General, that the juror is disqualified from serving in any case on trial; or,

2. Particular, that he is disqualified from serving in the case on trial.

R.L.1910, § 5856.

§22-658. Causes for challenge, in general.

General causes of challenges are:

1. A conviction for felony.

2. A want of any of the qualifications prescribed by law, to render a person a competent juror, including a want of knowledge of the English language as used in the courts.

3. Unsoundness of mind, or such defect in the faculties of the mind or organs of the body as renders him incapable of performing the duties of a juror.

R.L.1910, § 5857.

§22-659. Particular causes - Implied bias - Actual bias.

Particular causes of challenge are of two kinds:

1. For such a bias as when the existence of the facts is ascertained, in judgment of law disqualifies the juror, and which is known in this chapter as implied bias.

2. For the existence of a state of mind on the part of the juror, in reference to the case, or to either party, which satisfies the court, in the exercise of a sound discretion, that he cannot try the issue impartially, without prejudice to the substantial rights of the party challenging, and which is known in this chapter as actual bias.

R.L.1910, § 5858.

§22-660. Implied bias, challenge for.

A challenge for implied bias may be taken for all or any of the following cases, and for no other:

1. Consanguinity or affinity within the fourth degree, inclusive, to the person alleged to be injured by the offense charged or on whose complaint the prosecution was instituted, or to the defendant.

2. Standing in the relation of guardian and ward, attorney and client, master and servant, or landlord and tenant, or being a member of the family of the defendant, or of the person alleged to be injured by the offense charged, or on whose complaint the prosecution was instituted, or in his employment on wages.

3. Being a party adverse to the defendant in a civil action, or having complained against, or been accused by him in a criminal prosecution.

4. Having served on the grand jury which found the indictment, or on a coroner's jury which inquired into the death of a person whose death is the subject of the prosecution.

5. Having served on a trial jury which has tried another person for the offense charged in the indictment or information.

6. Having been one of the jury formerly sworn to try the indictment or information and whose verdict was set aside, or which was discharged without a verdict, after the cause was submitted to it.

7. Having served as a juror in a civil action brought against the defendant for the act charged as an offense.

8. If the offense charged be punishable with death, the entertaining of such conscientious opinions as would preclude his finding the defendant guilty of, in which case he shall neither be permitted nor compelled to serve as a juror.

R.L.1910, § 5859.

§22-661. Right of exemption from service not cause for challenge.

An exemption from service on a jury is not a cause of challenge, but the privilege of the person exempted.

R.L. 1910, § 5860.

§22-662. Cause for challenge must be stated - Form and entry of challenge - Juror not disqualified for having formed opinion, when.

In a challenge for implied bias, one or more of the causes stated in the second preceding section must be alleged. In a challenge for actual bias, the cause stated in the second subdivision of the third preceding section must be alleged; but no person shall be disqualified as a juror by reason of having formed or expressed an opinion upon the matter or cause to be submitted to such jury, founded upon rumor, statements in public journals, or common notoriety, provided it appears to the court, upon his declaration, under oath or otherwise, that he can and will, notwithstanding such opinion, act impartially and fairly upon the matters to be submitted to him. The challenge may be oral, but must be entered upon the minutes of the court.

R.L.1910, § 5861.

§22-663. Exception to the challenge.

The adverse party may except to the challenge in the same manner as to a challenge to the panel, and the same proceedings must be had thereon, except that if the exception be allowed the juror must be excluded. The adverse party may also orally deny the facts alleged as the grounds of challenge.

R.L.1910, § 5862.

§22-664. Trial of challenges.

All challenges, whether to the panel or to individual jurors shall be tried by the court, without the aid of triers.
R.L.1910, § 5863.

§22-665. Trial of challenge - Examining jurors.
Upon the trial of a challenge to an individual juror, the juror challenged may be examined as a witness to prove or disprove the challenge, and is bound to answer every question pertinent to the inquiry therein.
R.L.1910, § 5864.

§22-666. Other witnesses.
Other witnesses may also be examined on either side, and the rules of evidence applicable to the trial of other issues govern the admission or exclusion of testimony, on the trial of the challenges. R.L.1910, § 5865.

§22-667. Ruling on challenge.
On the trial of a challenge the court must either allow or disallow the challenge and direct an entry accordingly upon the minutes.
R.L.1910, § 5866.

§22-691. Challenges to individual jurors.
All challenges to individual jurors must be taken, first by the defendant and then by the state alternately.
R.L.1910, § 5867.

§22-692. Order of challenges for cause.
The challenges of either party for cause need not all be taken at once, but they must be taken separately, in the following order, including in each challenge all the causes of challenge belonging to the same class:
1. To the panel.
2. To an individual juror for a general disqualification.
3. To an individual juror for implied bias.
4. To an individual juror for actual bias.
R.L.1910, § 5868.

§22-693. Peremptory challenges.
If all challenges on both sides are disallowed, either party, first the state and then the defendant, may take a peremptory challenge, unless the peremptory challenges are exhausted.
R.L.1910, § 5869.

§22-701. Defendant a competent witness - Comment on failure to testify - Presumption.

In the trial of all indictments, informations, complaints and other proceedings against persons charged with the commission of a crime, offense or misdemeanor before any court or committing magistrate in this state, the person charged shall at his own request, but not otherwise, be a competent witness, and his failure to make such request shall not create any presumption against him nor be mentioned on the trial; if commented upon by counsel it shall be ground for a new trial.
R.L.1910, § 5881.

§22-703. Subpoena defined.
The process by which the attendance of a witness before a court or magistrate is required, is a subpoena.
R.L.1910, § 6009.

§22-704. Magistrate may issue subpoena.
A magistrate before whom complaint is laid, or to whom a presentment of a grand jury or information is sent, may issue subpoenas, subscribed by him, for witnesses within the state, either on behalf of the state or of the defendant.
R.L.1910, § 6010.

§22-705. District attorney to issue subpoenas for grand jury.
The district attorney may issue subpoena, subscribed by him, for witnesses within the state in support of the prosecution, or for such other witnesses as the grand jury may direct, to appear before the grand jury upon an investigation before them.
R.L.1910, § 6011.

§22-706. Issuing subpoenas for trial.
The district attorney may in like manner issue subpoena for witnesses within the state, in support of an indictment or information, to appear before the court at which it is to be tried.
R.L.1910, § 6012.

§22-707. Defendant's subpoenas.
The clerk of the court at which an indictment is to be tried, must, at all times, upon the application of the defendant, and without charge, issue as many blank subpoenas, under the seal of the court and subscribed by him as clerk, for witnesses within the state, as may be required by the defendant.
R.L.1910, § 6013.

§22-708. Form of subpoena.
A subpoena, authorized by the last four sections, must be substantially in the following form:

IN THE NAME OF THE STATE OF

OKLAHOMA.

To ..... ,

Greeting: You are commanded to appear before C. D., a justice of the peace of ..... at ..... (or the grand jury of the county of ..... or the district court of ..... county, or as the case may be), on the ..... (stating day and hour), and remain in attendance on and call of said ..... from day to day and term to term until lawfully discharged, as a witness in a criminal action prosecuted by the State of Oklahoma against E. F. (or to testify as the case may be).

R.L.1910, § 6014.

§22-709. Continuances, witness must take notice of.

Every witness summoned in a criminal action pending in a district, superior or county court shall take notice of the postponements and continuances and when once summoned in such action shall, without further notice or summons, be in attendance upon such action, as such witness, until discharged by the court.

R.L.1910, § 6015.

§22-710. Subpoena duces tecum.

If the books, papers or documents be required, a direction to the following effect must be continued in the subpoena:

And you are required also to bring with you the following: (Describe intelligently the books, papers or documents required).

R.L.1910, § 6016.

§22-711. Service of subpoena by whom - Return.

A peace officer must serve in his county, city, town or village, as the case may be, any subpoena delivered to him for service, either on the part of the state or of the defendant, and must make a written return of the service, subscribed by him, stating the time and place of service without delay. A subpoena may, however, be served by any other person.

R.L.1910, § 6017.

§22-712. Service, manner of - Cost.

A. Service of subpoenas for witnesses in criminal actions in the district courts of this state shall be made in the same manner as in civil actions pursuant to Section 2004.1 of Title 12 of the Oklahoma Statutes.

B. The cost of service of subpoenas shall be borne by the parties unless otherwise ordered by the court.

R.L. 1910, § 6018. Amended by Laws 1984, c. 164, § 30, eff. Nov. 1, 1984; Laws 1985, c. 112, § 6, eff. Nov. 1, 1985; Laws 1997, c. 400, § 8, eff. July 1, 1997.

§22-715. Witness residing outside county – Subpoena of court clerks.

A. No person is obliged to attend as a witness before a court or magistrate outside the county where the witness resides or is served with a subpoena, unless the judge of the court in which the offense is triable, upon an affidavit of the district attorney, or of the defendant or the defendant's counsel, stating that he or she believes that the evidence and attendance of the witness is material and necessary, shall endorse on the subpoena an order for the attendance of the witness.

B. The court clerks of this state shall not be subject to subpoena unless the court makes a specific finding that appearance and testimony are both material and necessary because of a written objection to the introduction of certified documents made by the defendant or other party prior to trial.

R.L.1910, § 6021; Laws 1999, c. 386, § 3, eff. Nov. 1, 1999.

§22-716. Disobedience to subpoena.

Disobedience to a subpoena, or a refusal to be sworn or to testify, may be punished by the court or magistrate, as for a criminal contempt, in the manner provided in civil procedure.

R.L.1910, § 6022.

§22-717. Disobeying defendant's subpoena - Forfeiture.

A witness disobeying a subpoena issued on the part of the defendant, also forfeits to the defendant the sum of Fifty Dollars ($50.00), which may be recovered in a civil action.

R.L.1910, § 6023.

§22-718. Witnesses - Fees and mileage.

A witness who appears from another state to testify in this state in a criminal case or proceeding pursuant to a subpoena issued in accordance with the provisions of the Uniform Act to Secure the Attendance of Witnesses from Without a State in Criminal Proceedings, Section 721 et seq. of this title, shall be reimbursed as prescribed by law for travel and expenses at rates not to exceed those prescribed by law for reimbursement of state employees traveling interstate. Such witnesses shall receive the same fees as witnesses who appear from this state, pursuant to Section 81 of Title 28 of the Oklahoma Statutes. If the witness is under eighteen (18) years of age, or requires the assistance of a guardian due to age or infirmity, the travel expenses of one parent or guardian may be reimbursed also. The parent or guardian shall not be entitled to a witness fee. Upon conviction, such fees and mileage shall be taxed as costs, collected and deposited as other costs in the case.

R.L.1910, § 6024. Amended by Laws 1973, c. 138, § 1, emerg. eff. May 10, 1973; Laws 1975, c. 227, § 2, eff. Oct. 1, 1975; Laws 1983, c. 126, § 1, operative July 1, 1983; Laws 1985, c. 112, § 7, eff. Nov.

1, 1985; Laws 1993, c. 227, § 5, eff. July 1, 1993; Laws 1994, c. 229, § 1, eff. Sept. 1, 1994; Laws 2002, c. 460, § 17, eff. Nov. 1, 2002.

§22-719. Persons held as material witnesses to be informed of constitutional rights - Fees.

Whenever any person shall be taken into custody by any law enforcement officer to be held as a material witness in any criminal investigation or proceeding, he shall, if not sooner released, be taken before a judge of the district court without unnecessary delay and said judge of the district court shall immediately inform him of his constitutional rights including the reason he is being held in custody, his right to the aid of counsel in every stage of the proceedings, and of his right to be released from custody upon entering into a written undertaking in the manner provided by law. A witness who is held in custody pursuant to the provisions hereof shall be kept separately and apart from any person, or persons, being held in custody because of being accused of committing a crime. A witness who desires aid of counsel and is unable to obtain aid of counsel by reason of poverty shall be by the court provided counsel at the expense of the court fund of the county. During the time a witness is in custody he shall receive the witness fee provided by law for witnesses in criminal cases.
Laws 1970, c. 193, § 1, emerg. eff. April 13, 1970.

§22-720. Detainment of person as material witness.

A. If a law enforcement officer has probable cause to believe that a person is a necessary and material witness to a felony and that there is probable cause to believe that the person would be unwilling to accept service of a subpoena or may otherwise refuse to appear in any criminal proceeding, the officer may detain the person as a material witness with or without an arrest warrant; provided, no person may be detained as a material witness to a crime for more than forty-eight (48) hours without being taken before a judge as required by Section 719 of Title 22 of the Oklahoma Statutes; and provided further, no person may be detained as a material witness to a crime who is a victim of such crime.

B. At the time of the detainment, the law enforcement officer shall inform the person:

1. Of the identity of the officer as a law enforcement officer; and

2. That the person is being detained because the officer has probable cause to believe the person:

a. is a material witness to an identified felony, and

b. would be unwilling to accept service of a subpoena or may otherwise refuse to appear in any criminal proceeding.

C. If a material witness is taken into custody pursuant to this section, the provisions of Section 719 of Title 22 of the Oklahoma Statutes shall apply.
Added by Laws 2004, c. 275, § 10, eff. July 1, 2004.

§22-721. Definitions.

"Witness" as used in this act shall include a person whose testimony is desired in any proceeding or investigation by a grand jury or in a criminal action, prosecution or proceeding.

The word "state" shall include any territory of the United States and the District of Columbia.

The word "summons" shall include a subpoena, order or other notice requiring the appearance of a witness.
Laws 1949, p. 205, § 1.

§22-722. Summoning witness in this state to testify in another state.

A. If a judge of a court of record in any state which by its laws has made provision for commanding persons within that state to attend and testify in this state certifies under the seal of such court that there is a criminal prosecution pending in such court, or that a grand jury investigation has commenced or is about to commence, that a person being within this state is a material witness in such prosecution, or grand jury investigation, and that his presence will be required for a specified number of days, upon presentation of such certificate to any judge of a court of record in the county in which such person is, such judge shall fix a time and place for a hearing, and shall make an order directing the witness to appear at a time and place certain for the hearing.

B. If at a hearing the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution or a grand jury investigation in the other state, and that the laws of the state in which the prosecution is pending, or grand jury investigation has commenced or is about to commence, (and of any other state through which the witness may be required to pass by ordinary course of travel), will give to him protection from arrest and the service of civil and criminal process, he shall issue a summons, with a copy of the certificate attached, directing the witness to attend and testify in the court where the prosecution is pending, or where a grand jury investigation has commenced or is about to commence at a time and place specified in the summons. In any such hearing the certificate shall be prima facie evidence of all the facts stated therein.

C. If said certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting state to assure his attendance in the requesting state, such judge may, in

lieu of notification of the hearing, direct that such witness be forthwith brought before him for said hearing; and the judge at the hearing being satisfied of the desirability of such custody and delivery, for which determination the certificate shall be prima facie proof of such desirability may, in lieu of issuing subpoena or summons, order that said witness be forthwith taken into custody and delivered to an officer of the requesting state.

D. If the witness, who is summoned as above provided, after being paid or tendered by some properly authorized person the greater of the sum authorized by the law of the state to which the witness must travel or the sum of fifteen cents ($0.15) a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending and Twelve Dollars ($12.00) for each day, that he is required to travel and attend as a witness, fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this state. Added by Laws 1949, p. 205, § 2. Amended by Laws 1994, c. 229, § 2, eff. Sept. 1, 1994.

§22-723. Witness from another state summoned to testify in this state.

A. If a person in any state, which by its laws has made provision for commanding persons within its borders to attend and testify in criminal prosecutions, or grand jury investigations commenced or about to commence, in this state, is a material witness in a prosecution pending in a court of record in this state, or in a grand jury investigation which has commenced or is about to commence, a judge of such court may issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required. Said certificate may include a recommendation that the witness be taken into immediate custody and delivered to an officer of this state to assure his attendance in this state. This certificate shall be presented to a judge of a court of record in the county in which the witness is found.

B. A witness who has appeared in accordance with the provisions of the summons shall not be required to remain within this state a longer period of time than the period mentioned in the certificate, unless otherwise ordered by the court. If such witness, after coming into this state, fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this state.

C. If the witness is summoned to attend and testify in this state he shall be tendered, at the time he is ordered to appear, travel and expenses pursuant to Section 718 of this title for each day he is required to travel and attend as a witness. A judge of a

court of record in this state may approve travel and expenses pursuant to Section 718 of this title for witnesses who voluntarily appear and testify in a criminal prosecution or grand jury investigation upon proper affidavit and showing.
Laws 1949, p. 206, § 3; Laws 1975, c. 227, § 3, eff. Oct. 1, 1975; Laws 1980, c. 48, § 1, eff. July 1, 1980.

§22-724. Exemption from arrest and service of process.

If a person comes into this state in obedience to a summons directing him to attend and testify in this state he shall not while in this state pursuant to such summons be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into this state under the summons.

If a person passes through this state while going to another state in obedience to a summons to attend and testify in that state or while returning therefrom, he shall not while so passing through this state be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into this state under the summons.
Laws 1949, p. 206, § 4.

§22-725. Uniformity of interpretation.

This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of the states which enact it.
Laws 1949, p. 206, § 5.

§22-726. Short title.

This act may be cited as "Uniform Act to Secure the Attendance of Witnesses from Without a State in Criminal Proceedings".
Laws 1949, p. 206, § 6.

§22-727. Constitutionality.

If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or applications, and to this end the provisions of this act are declared to be severable.
Laws 1949, p. 206, § 8.

§22-728. Short Title.

This act shall be known and may be cited as the "Oklahoma Uniform Act to Secure Rendition of Prisoners in Criminal Proceedings".
Added by Laws 1989, c. 100, § 1, eff. Nov. 1, 1989.

§22-729. Definitions.

As used in this act:

1. "Penal institution" means a jail, prison, penitentiary, house of correction, or other place of penal detention or place where the prisoner is required to reside or report in lieu of penal detention, including, but not limited to house arrest, half-way houses, community or treatment centers;

2. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory of the United States;

3. "Witness" means a person who is confined in a penal institution in a state and whose testimony is desired in another state by a grand jury or other criminal proceeding before a court.

Added by Laws 1989, c. 100, § 2, eff. Nov. 1, 1989.

§22-730. Certificate from another state to compel witness to appear and testify - Notice, order and hearings.

A. A judge of a state court of record in another state, which by its laws has made provision for commanding persons confined in penal institutions within that state to attend and testify in this state, may certify as follows:

1. There is a criminal proceeding or investigation by a grand jury or other criminal proceeding pending in the court;

2. A person who is confined in a penal institution in this state may be a material witness in the proceeding; and

3. His presence will be required during a specified time.

B. Upon presentation of the certificate to any judge having jurisdiction over the person confined and on notice to the attorney general, the judge in this state shall:

1. Fix a time and place for a hearing; and

2. Enter an order directing the person having custody of the prisoner to produce the prisoner at the hearing.

Added by Laws 1989, c. 100, § 3, eff. Nov. 1, 1989.

§22-731. Transfer order - Determinations necessary - Copy of certificate attached - Directions and prescriptions - Responsibilities of requesting jurisdiction.

A. A judge may issue a transfer order if, at the hearing, the judge determines as follows:

1. The witness may be material and necessary to the proceeding;

2. His attendance and testimony are not adverse to the interest of this state or to the health or legal rights of the witness;

3. The laws of the state in which he is requested to testify will give him protection from arrest and the service of civil and criminal process due to any act committed prior to his arrival in the state under the order; and

4. The possibility is negligible that the witness may be subject to arrest or to the service of civil or criminal process in any state through which he will be required to pass.

B. If a judge issues an order under subsection A of this section, the judge shall attach to the order a copy of the certificate presented pursuant to Section 3 of this act. The order shall:

1. Direct the witness to attend and testify;

2. Except as provided by subsection C of this section, direct the person having custody of the witness to produce him in the court where the criminal proceeding is pending or where the grand jury is sitting at a time and place specified in the order; and

3. Prescribe such other conditions as the judge shall determine.

C. The judge, in lieu of directing the person having custody of the witness to produce him in the requesting jurisdiction's court, may direct and require in the order as follows: 1. An officer of the requesting jurisdiction to come to the Oklahoma penal institution in which the witness is confined to accept custody of the witness for physical transfer to the requesting jurisdiction;

2. The requesting jurisdiction provide proper safeguards for his custody while in transit;

3. The requesting jurisdiction be liable for and pay all expense incurred in producing and returning the witness, including but not limited to food, lodging, clothing, and medical care; and

4. The requesting jurisdiction promptly deliver the witness back to the same or another Oklahoma penal institution as specified by the Department of Corrections at the conclusion of his testimony.

Added by Laws 1989, c. 100, § 4, eff. Nov. 1, 1989.

§22-732. Transfer order - Additional conditions - Expenses of return of witness - Effective date.

A. An order to a witness and to a person having custody of the witness shall provide for the return of the witness at the conclusion of his testimony, proper safeguards for his custody, and reimbursement or prepayment by the requesting jurisdiction for all expenses incurred in the production and return of the witness.

B. The order may prescribe any other condition the judge determines to be proper or necessary.

C. The judge shall not require prepayment of expenses if the judge directs and requires the requesting jurisdiction to accept custody of the witness at the penal institution of this state in which the witness is confined and to deliver the witness back to the same or another penal institution of this state as specified by the Oklahoma Department of Corrections at the conclusion of his testimony.

D. An order does not become effective until the judge of the state requesting the witness enters an order directing compliance with the conditions prescribed.

Added by Laws 1989, c. 100, § 5, eff. Nov. 1, 1989.

§22-733. Act inapplicable to certain persons.

This act does not apply to a person in this state who is confined due to mental illness or who is under sentence of death.

Added by Laws 1989, c. 100, § 6, eff. Nov. 1, 1989.

§22-734. Certificate from this state to another state to compel prisoner to appear and testify - Contents - Presentation - Notice to attorney general of other state.

A. If a person confined in a penal institution in any other state may be a material witness in a criminal proceeding pending in a court of record or in a grand jury investigation in this state, a judge of the court may certify as follows:

1. There is a grand jury or a criminal proceeding pending in this court;

2. A person who is confined in a penal institution in the other state may be a material witness in the proceeding or investigation; and

3. His presence will be required during a specified time.

B. The judge of the court in this state shall:

1. Present the certificate to a judge of a court of record in the other state having jurisdiction over the prisoner confined; and

2. Give notice to the attorney general of the state in which the prisoner is confined, that the prisoner's presence will be required.

Added by Laws 1989, c. 100, § 7, eff. Nov. 1, 1989.

§22-735. Order directing compliance with terms and conditions of order from another state.

A judge of the court in this state may enter an order directing compliance with the terms and conditions of an order specified in a certificate pursuant to Section 3 of this act and entered by the judge of the state in which the witness is confined.

Added by Laws 1989, c. 100, § 8, eff. Nov. 1, 1989.

§22-736. Immunity from arrest and civil or criminal process.

If a witness from another state comes into or passes through this state under an order directing him to attend and testify in this or any other state, while in this state pursuant to the order, he shall not be subject to arrest or the service of civil or criminal process because of any act committed prior to his arrival in this state under the order.

Added by Laws 1989, c. 100, § 9, eff. Nov. 1, 1989.

§22-737. Construction of act.

This act shall be so construed as to effect its general purpose to make uniform the laws of those states which enact it.

Added by Laws 1989, c. 100, § 10, eff. Nov. 1, 1989.

§22-741. Overt act in conspiracy.

Upon a trial for conspiracy, in a case where an overt act is necessary to constitute the offense, the defendant cannot be convicted unless one or more overt acts be expressly alleged in the indictment or information, nor unless one or more of the acts alleged be proved; but any other overt act, not alleged in the indictment may be given in evidence.
R.L.1910, § 5883.

§22-742. Accomplice, testimony of.

A conviction cannot be had upon the testimony of an accomplice unless he be corroborated by such other evidence as tends to connect the defendant with the commission of the offense, and the corroboration is not sufficient if it merely show the commission of the offense or the circumstances thereof.
R.L.1910, § 5884.

§22-743. False pretenses, evidence of.

Upon a trial for having, with an intent to cheat or defraud another designedly, by any false pretense, obtained the signature of any person to a written instrument, or having obtained from any person any money, personal property or valuable thing, the defendant cannot be convicted if the false pretense was expressed in language unaccompanied by a false token or writing, unless the pretense, or some note or memorandum thereof, be in writing either subscribed by, or in the handwriting of the defendant, or unless the pretense be proven by the testimony of two witnesses, or that of one witness and corroborating circumstances. But this section does not apply to prosecution for falsely representing or personating another, and in such assumed character, marrying or receiving money or property.
R.L.1910, § 5885.

§22-744. Seduction, corroboration of prosecutrix.

Upon a trial for inveigling, enticing or taking away an unmarried female of previous chaste character, under the age of twenty-five (25) years, for the purpose of prostitution, or aiding or assisting therein, or for having, under promise of marriage, seduced and had illicit connection with an unmarried female of previous chaste character, the defendant cannot be convicted upon testimony of the person injured unless she is corroborated by other evidence tending to connect the defendant with the commission of the offense.
R.L.1910, § 5886.

§22-745. Murder, burden of proof in mitigation of.

Upon a trial for murder, the commission of the homicide by the defendant being proven, the burden of proving circumstances of mitigation, or that justify or excuse it, devolves upon him, unless

the proof on the part of the prosecution tends to show that the crime committed only amounts to manslaughter, or that the defendant was justifiable or excusable.
R.L.1910, § 5902.

§22-746. Bigamy, proof on trial for.

Upon a trial for bigamy, it is not necessary to prove either of the marriages by the register, certificate or other record evidence thereof, but the same may be proved by such evidence as is admissible to prove a marriage in other cases, and when the second marriage took place out of the state, proof of that fact accompanied with proof of cohabitation thereafter in this state, is sufficient to sustain the charge.
R.L.1910, § 5903.

§22-747. Forgery of bill or note of corporation or bank, proof on trial for.

Upon a trial for forgery any bill or note purporting to be a bill or note of an incorporated company or bank, or for passing or attempting to pass, or having in possession with intent to pass, any such forged bill or note, it is not necessary to prove the incorporation of such bank or company by the charter or act of incorporation, but it may be proved by general reputation, and persons of skill are competent witnesses to prove that such bill or note is forged or counterfeited.
R.L.1910, § 5904.

§22-748. Perjury in court, evidence as to.

In cases of perjury, where the perjury is charged to have been committed in a court, it shall be sufficient to show that the oath was administered by any officer of the court authorized so to do, or that the defendant testified and gave his testimony as under oath, or if the question be in doubt as to what particular officer administered the oath, it may be shown that it was administered by any officer authorized so to do.
R.L.1910, § 5909.

§22-749. Sworn statements taken by district attorney or peace officer of persons having knowledge of criminal offense - Use.

A. In the investigation of a criminal offense, the district attorney or any peace officer may take the sworn statement of any person having knowledge of such criminal offense. Any person charged with a crime shall be entitled to a copy of any such sworn statement upon the same being obtained.

B. If a witness in a criminal proceeding gives testimony upon a material issue of the case contradictory to his previous sworn statement, evidence may be introduced that such witness has

previously made a statement under oath contradictory to such testimony.
Laws 1969, c. 224, § 1, emerg. eff. April 21, 1969.

§22-750. Renumbered as § 2412 of Title 12 by Laws 1992, c. 168, § 1, eff. Sept. 1, 1992.

§22-751. Admission of findings - Laboratory and medical examiner's reports - Release of controlled dangerous substances - Compelled attendance in court of report preparers.

A. At any hearing prior to trial or at a forfeiture hearing:

1. A report of the findings of the laboratory of the Oklahoma State Bureau of Investigation, the Federal Bureau of Investigation or the Drug Enforcement Administration;

2. The report of investigation or autopsy report of the medical examiner;

3. A laboratory report from a forensic laboratory operated by this state or any political subdivision thereof, or from a laboratory performing analysis at the request of a forensic laboratory operated by this state or any political subdivision thereof;

4. A report from the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control or the electronic methamphetamine precursor tracking service provider as set forth in the Uniform Controlled Dangerous Substances Act as to the existence or status of any license or permit to sell, transfer, or possess precursor substances or any report containing data collected and required to be transmitted by a registrant to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Central Repository pursuant to the provisions of the Anti-Drug Diversion Act as set forth under the Uniform Controlled Dangerous Substances Act; or

5. A report from the Department of Public Safety as to the handling and storage of evidence, which has been made available to the accused by the office of the district attorney at least five (5) days prior to the hearing, with reference to all or any part of the evidence submitted, when certified as correct by the persons making the report shall be received as evidence of the facts and findings stated, if relevant and otherwise admissible in evidence. If a report is deemed relevant by the state or the accused, the court shall admit the report without the testimony of the person making the report, unless the court, pursuant to subsection C of this section, orders the person making the report to appear. If the accused is not served with a report, by the district attorney, within five (5) days prior to a hearing, the accused may be allowed a continuance of the portion of the hearing to which the report is relevant, to allow at least five (5) days' preparation subsequent to the district attorney's furnishing of the report.

B. When any alleged controlled dangerous substance has been submitted to the laboratory of the Bureau for analysis, and such analysis shows that the submitted material is a controlled dangerous substance, the distribution of which constitutes a felony under the laws of this state, no portion of such substance shall be released to any other person or laboratory without an order of a district court. The defendant shall additionally be required to submit to the court a procedure for transfer and analysis of the subject material to ensure the integrity of the sample and to prevent the material from being used in any illegal manner.

C. For purposes of the medical examiner's report of investigation or autopsy report, or a laboratory report from a forensic laboratory operated by the State of Oklahoma or any political subdivision thereof or a report from the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control as to the existence or status of any license or permit to sell, transfer, or possess precursor substances:

1. The court, upon motion of the state or the accused, shall order the attendance of any person preparing a report submitted as evidence in any hearing prior to trial or forfeiture hearing, when it appears there is a substantial likelihood that material evidence not contained in such report may be produced by the testimony of the person having prepared the report;

2. The motion shall be filed and notice of the hearing on the motion to order the attendance of the Chief Medical Examiner, a medical examiner, consultant pathologist, or anyone under their supervision or control shall be given to the medical examiner's office. The hearing shall be held and, if sustained, an order issued not less than five (5) days prior to the time when the testimony shall be required; and

3. If within five (5) days prior to the hearing or during a hearing a motion is made pursuant to this subsection requiring a person having prepared a report to testify, the court may hear a report or other evidence but shall continue the hearing until such time notice of the motion and hearing is given to the medical examiner's office, the motion is heard, and, if sustained, testimony ordered can be given.

Added by Laws 1976, c. 259, § 15, operative July 1, 1976. Amended by Laws 1988, c. 109, § 26, eff. Nov. 1, 1988; Laws 1991, c. 228, § 1, emerg. eff. May 23, 1991; Laws 1992, c. 355, § 3; Laws 1996, c. 199, § 2, eff. Nov. 1, 1996; Laws 1999, c. 55, § 1, emerg. eff. April 5, 1999; Laws 2001, c. 99, § 1, eff. July 1, 2001; Laws 2004, c. 130, § 5, emerg. eff. April 20, 2004; Laws 2009, c. 274, § 2, eff. Nov. 1, 2009; Laws 2010, c. 89, § 1, eff. Nov. 1, 2010; Laws 2013, c. 5, § 1, eff. Nov. 1, 2013; Laws 2019, c. 209, § 1, eff. Nov. 1, 2019.

§22-751.1. DNA profile - Use as evidence - Notification of defendant.

A. As used in this act:

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

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

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

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

C. If the state decides to offer evidence of a DNA profile in any trial on the merits, the state shall, at least fifteen (15) days

before the criminal proceeding, notify in writing the defendant or the defendant's attorney and mail, deliver, or make available to the defendant or the defendant's attorney a copy of any report or statement to be introduced that has not previously been made available to the defendant or the defendant's attorney pursuant to subsection B of this section.
Added by Laws 1991, c. 227, § 1, emerg. eff. May 23, 1991. Amended by Laws 2001, c. 88, § 1, eff. Nov. 1, 2001; Laws 2009, c. 274, § 1, eff. Nov. 1, 2009.

§22-752. Repealed by Laws 1993, c. 197, § 4, eff. Sept. 1, 1993.

§22-753. Repealed by Laws 2003, c. 405, § 11, eff. Nov. 1, 2003.

§22-761. Conditional examination of witnesses.

When a defendant has been held to answer a charge for a public offense, the defendant or the State of Oklahoma may either before or after indictment or information, have witnesses examined conditionally on his behalf as prescribed in this article, and not otherwise.
R.L. 1910, § 6025. Amended by Laws 1994, c. 292, § 5, eff. Sept. 1, 1994.

§22-762. Conditional examinations in certain cases.

When a material witness in any criminal case is about to leave the state, or is so sick or infirm as to afford reasonable grounds for apprehending that he will be unable to attend the trial, the defendant or the State of Oklahoma may apply for an order that the witness be examined conditionally.
Amended by Laws 1983, c. 126, § 2, operative July 1, 1983.

§22-762.1. Order for conditional examination of witnesses.

Where the magistrate terminated the preliminary hearing pursuant to Section 258 of Title 21 of the Oklahoma Statutes and a witness subsequently refuses an interview with counsel for the opposing party, the defendant or the State of Oklahoma may apply for an order that the witness be examined conditionally.
Added by Laws 1994, c. 292, § 6, eff. Sept. 1, 1994.

§22-763. Affidavit on application for conditional examination.

The application must be made upon affidavit stating:

First. The nature of the offense charged.

Second. The state of the proceedings in the action.

Third. The name and residence of the witness, and that his testimony is material to the defense of the action.

Fourth. That the witness is about to leave the state, or is so sick or infirm as to afford reasonable grounds for apprehending that

he will not be able to attend the trial, or that the magistrate terminated the preliminary hearing pursuant to Section 258 of this title and that the witness refuses to grant an interview to counsel regarding the material issues for trial.
R.L. 1910, § 6027. Amended by Laws 1994, c. 292, § 7, eff. Sept. 1, 1994.

§22-764. Application made to court or judge - Notice.
The application may be made to the court or to a judge thereof, and must be made upon five (5) days notice to the counsel for the opposing party, if any.
R.L. 1910, § 6028. Amended by Laws 1994, c. 292, § 8, eff. Sept. 1, 1994.

§22-765. Order for examination - Testimony by alternative method.
If the court or judge is satisfied that the examination of the witness is necessary an order must be made that the witness be examined conditionally at a specified time and place, and that a copy of the order be served on counsel for the opposing party within a specified time before that fixed for the examination. If the witness is a child under thirteen (13) years of age or a vulnerable adult as defined in Section 10-103 of Title 43A of the Oklahoma Statutes, the court can allow the witness to testify through an alternative method pursuant to the provisions of the Uniform Child Witness Testimony by Alternative Methods Act or Section 2611.2 of Title 12 of the Oklahoma Statutes.
R.L. 1910, § 6029. Amended by Laws 1994, c. 292, § 9, eff. Sept. 1, 1994; Laws 2004, c. 445, § 3, emerg. eff. June 4, 2004.

§22-766. Examination before magistrate or certified court reporter.
The order must direct that the examination be taken before a magistrate named therein or upon agreement of both the state and defendant before a certified court reporter. The defendant must be present for the examination to proceed, unless the presence of the defendant is waived by both parties.
R.L. 1910, § 6030. Amended by Laws 1994, c. 292, § 10, eff. Sept. 1, 1994.

§22-767. When examination shall not proceed.
If the district attorney or other counsel appear on behalf of the people, and it is shown to the satisfaction of the magistrate by affidavit or other proof, or on examination of the witness, that he is not about to leave the state, or is not sick or infirm, or that the application was made to avoid the examination of the witness on trial, or that the preliminary hearing was not terminated pursuant to Section 258 of this title and that the witness is not refusing to

grant an interview to counsel, the examination cannot take place; otherwise, it must proceed.
R.L. 1910, § 6031. Amended by Laws 1994, c. 292, § 11, eff. Sept. 1, 1994.

§22-768. Attendance of witness enforced, how.

The attendance of the witness may be enforced by subpoena issued by the magistrate before whom the examination is to be taken, or from the court where the trial is to be had.
R.L.1910, § 6032.

§22-769. Taking and authentication of testimony.

The testimony given by the witness must be reduced to writing. The magistrate before whom the examination is had may, in his discretion, order the testimony and proceedings to be taken down in shorthand, and for that purpose he may appoint a shorthand reporter. The deposition or testimony of the witness must be authenticated in the following form:

1. It must state the name of the witness, his place of residence and his business or profession.

2. It must contain the questions put to the witness and his answers thereto, each answer being distinctly read to him as it is taken down, and being corrected or added to until it conforms to what he declares is the truth; except in cases where the testimony is taken down in shorthand, the answer or answers of the witness need not be read to him.

3. If the witness declines answering a question, that fact with the ground on which the answer was declined must be stated.

4. The deposition must be signed by the witness, or if he refuse to sign it, his reason for refusing must be stated in writing as he gives it; except in cases where the deposition is taken down in shorthand, it must not be signed by the witness.

5. It must be signed and certified by the magistrate when reduced to writing by him or under his direction; and when taken down in shorthand, the manuscript of the reporter, appointed as aforesaid, when written out in longhand writing, and certified as being a correct statement of such testimony and proceedings in the case, shall be prima facie a correct statement of such testimony and proceedings. The reporter shall within five (5) days after the close of such examination transcribe into longhand writing his said shorthand notes, and certify and deliver the same to the magistrate, who shall also certify the same and transmit such testimony and proceedings, carefully sealed up, to the clerk of the court in which the action is pending or may come for trial.
R.L.1910, § 6033.

§22-770. Deposition read in evidence, when - Objections to questions therein.

The deposition or certified copy thereof may be read in evidence by either party on the trial upon its appearing that the witness is unable to attend by reason of his death, insanity, sickness, or infirmity, or of his continued absence from the state. Upon reading the depositions in evidence, the same objections may be taken to a question or answer contained therein as if the witness had been examined orally in court.
R.L.1910, § 6034.

§22-771. Prisoner, deposition of - Oath.

When a material witness for a defendant under a criminal charge is a prisoner in a state prison or in a county jail of a county other than that in which the defendant is to be tried, his deposition may be taken on behalf of the defendant in the manner provided for in the case of a witness who is sick; and the foregoing provisions of this article, so far as they are applicable, govern in the application for, and in the taking and use of such depositions, such deposition may be taken before any magistrate or notary public of the county in which the jail or prison is situated; or in case the witness is confined in a state prison, and the defendant is unable to pay for taking the deposition, before the warden or clerk of the board of control of the prison, whose duty it shall be to act without compensation. Every officer before whom testimony shall be taken by virtue hereof, shall have authority to administer, and shall administer an oath to the witness, that his testimony shall be the truth, the whole truth and nothing but the truth.
R.L.1910, § 6035.

§22-781. Witness out of state.

When an issue of fact is joined upon an indictment or information the defendant may have any material witness residing out of the state examined in his behalf as prescribed in this article and not otherwise.
R.L.1910, § 6036.

§22-782. Nonresident witness - Application for commission to take testimony.

When a material witness for the defendant resides out of the state the defendant may apply for an order that the witness be examined on a commission to be issued under the seal of the court, and the signature of the clerk, directed to some party designated as commissioner, authorizing him to examine the witness upon oath or interrogatories annexed thereto, and to take and certify the deposition of the witness and return it according to the instructions given with the commission.

R.L.1910, § 6037.

§22-783. Affidavit on application.

Application must be made upon affidavit stating:

1. The nature of the offense charged.

2. The state of the proceedings in the action and that an issue of the fact has been joined therein.

3. The name of the witness and that his testimony is material to the defense of the action.

4. That the witness resides out of the state.

R.L.1910, § 6038.

§22-784. Notice of application.

The application may be made to the court or judge himself, and must be upon five (5) days' notice to the district attorney.

R.L.1910, § 6039.

§22-785. Issuance of commission - Continuance.

If the court or the judge to whom the application is made, is satisfied of the truth of the facts stated and that the examination of the witness is necessary to the attainment of justice, an order must be made that a commission be issued to take his testimony, and the court or judge may insert in the order a direction that the trial be stayed for a specified time reasonably sufficient for the execution of the commission and return thereof, or the case may be continued.

R.L.1910, § 6040.

§22-786. Interrogatories and cross-interrogatories.

When the commission is ordered, the defendant must serve upon the district attorney, without delay, a copy of the interrogatories to be annexed thereto, with three (3) days notice of the time at which they will be presented to the court or judge. The district attorney may in like manner serve upon the defendant or his counsel cross-interrogatories, to be annexed to the commission, with like notice. In the interrogatories, either party may insert any question pertinent to the issue. When the interrogatories and cross-interrogatories are presented to the court or judge, according to the notice, the court or judge must modify the questions, so as to conform them to the rules of evidence, and must endorse upon them his alterations, and annex them to the commission.

R.L.1910, § 6041.

§22-787. Manner of return.

Unless the parties otherwise consent by an endorsement upon the commission, the court or judge must endorse thereon the direction and manner in which it must be returned, and may in his discretion direct

that it be returned by mail or otherwise, addressed to the clerk of the court in which the action is pending, designating his name, and the place where his office is kept.
R.L.1910, § 6042.

§22-788. Execution of commission.

The commissioner, unless otherwise specially directed, may execute the commission as follows:

1. He must administer an oath to the witness that his answers given to the interrogatories shall be the truth, the whole truth and nothing but the truth.

2. He must cause the examination of the witness to be reduced to writing and subscribed by him.

3. He must write the answers of the witness as nearly as possible in the language in which he gives them, and read to him each answer so taken down, and correct or add to it until it conforms to what he declares is the truth.

4. If the witness declines to answer a question, that fact, with the reason assigned by him for declining, must be stated.

5. If any papers or documents are produced before him, and proved by the witness, they, or copies of them, must be annexed to the deposition, subscribed by the witness, and certified by the commissioner.

6. The commissioner must subscribe his name to each sheet of the deposition, with the papers and documents proved by the witness, or copies thereof, to the commissioner, and must close it up under seal and address it as directed by the endorsement thereon.

7. If there be direction on the commission to return it by mail, the commissioner must immediately deposit it in the nearest post office. If any other direction be made by the written consent of the parties, or by the court or judge, to the commissioner as to its return, the commissioner must comply with the directions. A copy of this section must be annexed to the commission.
R.L.1910, § 6043.

§22-789. Delivery of returned commission by agent.

If the commission and return be delivered by the commissioner to an agent, he must deliver the same to the clerk to whom it is directed, or to the judge of the court in which the action is pending, by whom it may be received and opened upon the agent making affidavit that he received it from the hands of the commissioner, and that it has not been opened or altered since he received it.
R.L.1910, § 6044.

§22-790. Delivery when agent is incapacitated.

If the agent is dead, or from sickness or other cause is unable personally to deliver the commission and return as prescribed in the

last section, it may be received by the clerk or judge from any other person, upon his making an affidavit that he received it from the agent, that the agent is dead, or, from sickness or other casualty unable to deliver it, and it has not been opened or altered since the person making the affidavit received it, and that he believes it has not been opened or altered since it came from the hands of the commissioner.
R.L.1910, § 6045.

§22-791. Filing commission and return.
The clerk or judge receiving and opening the commission and return must immediately file it, with the affidavit mentioned in the last two sections, in the office of the clerk of the court in which the indictment or information is pending. If the commission and return is transmitted by mail, the clerk to whom it is addressed must receive it from the post office, and open and file it in his office, where it must remain unless otherwise directed by the court.
R.L.1910, § 6046.

§22-792. Commission and return open to inspection.
The commission and return must at all times be open to the inspection of all persons, who must be furnished a copy of the same, or any part thereof, on payment of his fees.
R.L.1910, § 6047.

§22-793. Reading deposition on trial.
Depositions taken under a commission may be read in evidence by either party on the trial upon it being shown that the witness is unable to attend from any cause whatever, and the same objections may be taken to a question in the interrogatories, or to the answers in the deposition, as if the witness had been examined orally in court.
R.L.1910, § 6048. R.L.1910, § 6048.

§22-811. Repealed by Laws 1999, 1st Ex.Sess., c. 6, § 3, eff. Nov. 1, 1999.

§22-812. Repealed by Laws 1999, 1st Ex.Sess., c. 6, § 3, eff. Nov. 1, 1999.

§22-812.1. Right to speedy trial – Time limits.
A. If any person charged with a crime and held in jail solely by reason thereof is not brought to trial within one (1) year after arrest, the court shall set the case for immediate review as provided in Section 2 of this act, to determine if the right of the accused to a speedy trial is being protected.
B. If any person charged with a felony crime who is held to answer on an appearance bond is not brought to trial within eighteen

(18) months after arrest, the court shall set the case for immediate review as provided in Section 2 of this act, to determine if the right of the accused to a speedy trial is being protected.

C. In the event a mistrial is declared or a conviction is reversed on appeal, the time limitations provided for in this section shall commence to run from the date the mistrial is declared or the date of the mandate of the Court of Criminal Appeals.
Added by Laws 1999, 1st Ex.Sess., c. 6, § 1, eff. Nov. 1, 1999.

§22-812.2. Right to speedy trial – Review process.

A. Whenever the court finds that a case should be reviewed to determine if the right of an accused to a speedy trial is being protected, the court shall:

1. Issue notice to the District Attorney, the accused, and the attorney for the accused that the case will be reviewed by the court at a date and time which is not less than ten (10) days nor more than twenty (20) days from the date of the notice. Each party shall have the opportunity to present evidence or legal authority in support of its position; and

2. Take evidence from both parties regarding the appropriateness of the cause for the delay. At the hearing, the court shall consider whether the delay has occurred for any of the following reasons:

a. the delay is the result of the application of the accused or an attorney on behalf of the accused,
b. the delay is the result of the fault of the accused or the attorney for the accused,
c. the accused is incompetent to stand trial,
d. a proceeding to determine the competency of the accused to stand trial is pending and a determination cannot be completed within the time limitations fixed for trial,
e. there is material evidence or a material witness which is unavailable and that reasonable efforts have been made to procure such evidence or witness, and there are reasonable grounds to believe that such evidence or witness can be obtained and trial commenced within a reasonable time,
f. the accused is charged as a codefendant or coconspirator and the court has determined that the codefendants or coconspirators must be tried before separate juries taken from separate jury panels,
g. the court has other cases pending for trial that are for persons incarcerated prior to the case in question, and the court does not have sufficient time to commence the trial of the case within the time limitation fixed for trial,
h. the court, state, accused, or the attorney for the accused is incapable of proceeding to trial due to

illness or other reason and it is unreasonable to reassign the case, and

i. due to other reasonable grounds the court does not have sufficient time to commence the trial of the case within the time limit fixed for trial.

B. If, after hearing all the evidence and the legal arguments properly submitted, the court finds by a preponderance of the evidence that the state is not proceeding with due diligence, that none of the exceptions set out in paragraph 2 of subsection A of this section justify additional delay and the right of the accused to a speedy trial has been violated, the court shall dismiss the case.

C. If a preliminary hearing has been held, the case may be refiled, unless the applicable statute of limitations has expired, upon a showing of newly discovered evidence which could not have been discovered prior to trial.

D. If a preliminary hearing has not been held, the case may be refiled, upon good cause shown, unless any applicable statute of limitations has expired.

E. If, after hearing all the evidence and the legal arguments properly submitted, the court finds that the right of the accused to a speedy trial has not been violated, the court shall set the case for review in four (4) months. If the case is still pending after the four-month period, the court shall conduct another review. The four-month review of pending cases shall be a continuing responsibility of the court until final disposition of the case.
Added by Laws 1999, 1st Ex.Sess., c. 6, § 2, eff. Nov. 1, 1999.

§22-813. Repealed by Laws 1999, 1st Ex.Sess., c. 6, § 3, eff. Nov. 1, 1999.

§22-814. Effect of dismissing action.

If the court direct the action to be dismissed, the defendant must, if in custody, be discharged therefrom, or if admitted to bail, his bail is exonerated, or money deposited instead of bail must be refunded to him.
R.L.1910, § 6098.

§22-815. Dismissal by court or on district attorney's application.

A. The court may either of its own motion or upon the application of the district attorney, upon the furtherance of justice, order an action or indictment to be dismissed; but in that case the reasons of the dismissal must be set forth in the order, which must be entered upon the minutes.

B. The district attorney may dismiss an action or indictment by filing a notice of dismissal at any time prior to commencement of the preliminary hearing in the case of a felony or, in the case of a misdemeanor, prior to the matter being set for trial. Any subsequent

request for dismissal of an action or indictment by the district attorney must be made pursuant to the provisions of subsection A of this section. A defendant named in such action or indictment shall only be required to pay the costs of that action if agreed upon by the parties.
R.L. 1910, § 6099. Amended by Laws 2016, c. 204, § 1, eff. Nov. 1, 2016.

§22-816. Nolle prosequi abolished.
The entry of a nolle prosequi is abolished, and the district attorney cannot discontinue or abandon a prosecution for a public offense, except as provided in the last section.
R.L.1910, § 6100.

§22-817. Dismissal not a bar to another prosecution.
An order for the dismissal of the action, as provided in this article, is not a bar to any other prosecution for the same offense.
R.L.1910, § 6101. R.L.1910, § 6101.

§22-831. Order of trial proceedings.
The jury having been impaneled and sworn, the trial must proceed in the following order:
1. If the indictment or information is for a felony, the clerk or district attorney must read it, and state the plea of the defendant to the jury. In other cases this formality may be dispensed with.
2. The district attorney, or other counsel for the state, must open the case and offer the evidence in support of the indictment or information.
3. The defendant or defendant's counsel shall give an opening statement immediately after the opening statement of the district attorney unless the defendant affirmatively reserves the opening statement until the district attorney has rested the state's case. The defense may offer evidence after the close of the state's case.
4. The parties may then, respectively, offer rebutting testimony only, unless the court for good reason, in furtherance of justice, or to correct an evident oversight, permit them to offer evidence upon their original case.
5. When the evidence is concluded, the attorneys for the prosecution may submit to the court written instructions. If the questions of law involved in the instructions are to be argued, the court shall direct the jury to withdraw during the argument, and after the argument, must settle the instructions, and may give or refuse any instructions asked, or may modify the same as he deems the law to be. Instructions refused shall be marked in writing by the judge, if modified, modification shall be shown in the instruction. When the instructions are thus settled, the jury, if sent out, shall

be recalled and the court shall thereupon read the instructions to the jury.

6. Thereupon, unless the case is submitted to the jury without argument, the counsel for the state shall commence, and the defendant or his counsel shall follow, then the counsel for the state shall conclude the argument to the jury. During the argument the attorneys shall be permitted to read and comment upon the instructions as applied to the evidence given, but shall not argue to the jury the correctness or incorrectness of the propositions of law therein contained. The court may permit one or more counsel to address the jury on the same side, and may arrange the order in which they shall speak, but shall not without the consent of the attorneys limit the time of their arguments. When the arguments are concluded, if the court be of the opinion that the jury might be misled by the arguments of counsel, he may to prevent the same further instruct the jury. All instructions given shall be in writing unless waived by both parties, and shall be filed and become a part of the record in the case.

R.L.1910, § 5870. Amended by Laws 2000, c. 262, § 1, eff. July 1, 2000.

§22-832. Court to decide the law.

The court must decide all questions of law which arise in the course of the trial.

R.L.1910, § 5871.

§22-833. Province of jury in libel case.

On the trial of an indictment or information for libel, the jury shall determine the facts under the instructions of the court as in other cases.

R.L.1910, § 5872.

§22-834. Jury limited to questions of fact.

On the trial of an indictment or information, questions of law are to be decided by the court, and the questions of fact are to be decided by the jury; and, although the jury have the power to find a general verdict, which includes questions of law as well as of fact, they are bound, nevertheless, to receive the law which is laid down as such by the court.

R.L.1910, § 5873.

§22-835. Restriction of argument - Number of counsel.

If the indictment or information is for an offense punishable with death, three counsel on each side may argue the case to the jury. If it is for any other offense the court may, in its discretion, restrict the argument to one counsel on each side.

R.L.1910, § 5874.

§22-836. Defendant presumed innocent - Reasonable doubt of guilt requires acquittal.

A defendant in a criminal action is presumed to be innocent until the contrary is proved, and in case of a reasonable doubt as to whether his guilt is satisfactorily shown, he is entitled to be acquitted.
R.L.1910, § 5875.

§22-837. Doubt as to degree of guilt.

When it appears that a defendant has committed a public offense and there is reasonable ground of doubt in which of two or more degrees he is guilty, he can be convicted of the lowest of such degree only.
R.L.1910, § 5877.

§22-839. Discharge of defendant that he may testify for state.

When two or more persons are included in the same indictment or information, the court may, at any time before the defendants have gone into their defense, on the application of the district attorney, direct any defendant to be discharged from the indictment or information, that he may be compelled to be a witness for the state.
R.L.1910, § 5879.

§22-840. Discharge of defendant that he may testify for codefendant.

When two or more persons are included in the same indictment or information, and the court is of opinion that in regard to a particular defendant there is not sufficient evidence to put him on his defense, it must, before the evidence is closed, in order that he may be compelled to be a witness for his codefendant, submit its opinion to the jury, who, if they so find, may acquit the particular defendant for the purpose aforesaid.
R.L.1910, § 5880.

§22-841. Higher offense than charged, existence of - Jury discharged.

If it appear by the testimony that the facts proved constitute an offense of a higher nature than that charged in the indictment or information, the court may direct the jury to be discharged, and all proceedings on the indictment or information to be suspended, and may order the defendant to be committed or continued on, or admitted to bail, to answer any new indictment or information which may be filed against him for the higher offense.
R.L.1910, § 5887.

§22-842. Discharge of jury not a former acquittal.

If an indictment or information for the higher offense is filed within a year next thereafter, he must be tried thereon, and a plea of former acquittal to such last prosecution is not sustained by the fact of the discharge of the jury on the first indictment or information.
R.L.1910, § 5888.

§22-843. Trial on original indictment, when.
If a new indictment or information is not filed for a higher offense within a year, as aforesaid, the court shall again proceed to try the defendant on the original indictment or information.
R.L.1910, § 5889.

§22-844. Jury may be discharged, when.
The court may direct the jury to be discharged where it appears that it has not jurisdiction of the offense, or that the facts as charged in the indictment or information do not constitute an offense punishable by law.
R.L.1910, § 5890.

§22-845. Disposition of prisoner on discharge of jury.
If the jury is discharged because the court has not jurisdiction of the offense charged in the indictment or information, and it appears that it was committed out of the jurisdiction of this state, the court may order the defendant to be discharged, or to be detained for a reasonable time specified in the order, until a communication can be sent by the district attorney to the chief executive officer of the state, territory or district where the offense was committed.
R.L.1910, § 5891.

§22-846. Disposition of prisoner where jurisdiction in another county.
If the offense was committed within the exclusive jurisdiction of another county of this state, the court must direct the defendant to be committed for such time as it deems reasonable to await a warrant from the proper county for his arrest, or if the offense be a misdemeanor only, it may admit him to bail in an undertaking, with sufficient sureties, that he will, within such time as the court may appoint, render himself amenable to a warrant for his arrest from the proper county, and if not sooner arrested thereon, will attend at the office of the sheriff of the county where the trial was had, at a time particularly specified in the undertaking, to surrender himself upon the warrant, if issued, or that his bail will forfeit such sum as the court may fix, and to be mentioned in the undertaking; and the clerk must forthwith transmit a certified copy of the indictment or information, and all the papers in the action filed with him, to the

district attorney of the proper county, the expense of which transmission is chargeable to the county.
R.L.1910, § 5892.

§22-847. Disposition of prisoner where defendant not arrested on warrant from proper county.

If the defendant is not arrested on a warrant from the proper county, he must be discharged from custody, or his bail in the action be exonerated, or money deposited instead of bail refunded, as the case may be, and the sureties in the undertaking as mentioned in the last section, must be discharged.
R.L.1910, § 5893.

§22-848. Disposition of prisoner - Proceedings if arrested.

If he is arrested, the same proceedings must be had thereon as upon the arrest of a defendant in another county, on a warrant of arrest issued by a magistrate.
R.L.1910, § 5894.

§22-849. Duty of court where no offense charged.

If the jury be discharged because the facts as charged do not constitute an offense punishable by law, the court must order that the defendant, if in custody, be discharged therefrom, or, if admitted to bail, that the bail be exonerated, or if he have deposited money instead of bail, that the money deposited be refunded to him unless in its opinion a new indictment or information can be framed, upon which the defendant can be legally convicted, in which case it may direct that the case be resubmitted to the same or another grand jury, or a new information filed.
R.L.1910, § 5895.

§22-850. Court may advise jury to acquit.

If, at any time after the evidence on either side is closed, the court deem it insufficient to warrant a conviction, it may advise the jury to acquit the defendant. But the jury are not bound by the advice, nor can the court, for any cause, prevent the jury from giving a verdict.
R.L.1910, § 5896. R.L.1910, § 5896.

§22-851. Jury may view place - Custody of sworn officer.

When, in the opinion of the court, it is proper that the jury should view the place in which the offense was charged to have been committed, or in which any other material fact occurred, it may order the jury to be conducted in a body, in the custody of proper officers, to the place, which must be shown to them by a person appointed by the court for that purpose, and the officers must be sworn to suffer no person to speak to or communicate with the jury,

nor to do so themselves, on any subject connected with the trial, and to return them into court without unnecessary delay, or at a specified time.
R.L.1910, § 5897.

§22-852. Juror must declare knowledge of case.

If a juror have any personal knowledge respecting a fact in controversy in a cause he must declare it in open court during the trial. If, during the retirement of a jury, a juror declare a fact, which could be evidence in the cause, as of his own knowledge, the jury must return into court. In either of these cases, the juror making the statement must be sworn as a witness and examined in the presence of the parties.
R.L.1910, § 5898.

§22-853. Custody and conduct of jury before submission - Separation - Sworn officer.

The jurors sworn to try an indictment or information, may, at any time before the submission of the cause to the jury, in the discretion of the court, be permitted to separate, or to be kept in charge of proper officers. The officers must be sworn to keep the jurors together until the next meeting of the court, to suffer no person to speak to or communicate with them, nor to do so themselves, on any subject connected with the trial, and to return them into court at the next meeting thereof. Such officer or officers having once been duly sworn, it is not necessary that they be resworn at each recess or adjournment. An admonition to the officer and the jury shall be sufficient.
R.L.1910, § 5899. Amended by Laws 1945, p. 97, § 1.

§22-853.1. Jurors - Protective orders.

The court, for good cause shown, upon motion of either party or any affected person or upon its own initiative, may issue a protective order for a stated period regulating disclosure of the identity and the business or residential address of any prospective or sworn juror to any person or persons, other than to counsel for either party. Such good cause shall exist in civil or criminal proceedings where the court determines that there is a likelihood of bribery, jury tampering, or of physical injury or harassment of the juror.
Added by Laws 1991, c. 33, § 1, eff. Sept. 1, 1991.

§22-854. Court must admonish jury as to conduct.

The jury must also, at each adjournment of the court, whether permitted to separate or kept in charge of officers, be admonished by the court that it is their duty not to converse among themselves or with any one else on any subject connected with the trial, or to form

or express any opinion thereon, until the case is finally submitted to them.
R.L.1910, § 5900.

§22-855. Sickness or death of juror - New juror sworn.
If, before the conclusion of a trial, a juror becomes sick, so as to be unable to perform his duty, the court may order him to be discharged. In that case or in the event of the death of a juror a new juror may be sworn, and the trial begin anew, or the jury may be discharged, and a new jury then or afterwards impaneled.
R.L.1910, § 5901. Amended by Laws 1941, p. 88, § 1.

§22-856. Requisites of charge of court - Presentation of written charge - Request to charge - Endorsement of disposition on charge presented - Partial refusal.
In charging the jury, the court must state to them all matters of law which it thinks necessary for their information in giving their verdict, and if it state the testimony of the case, it must in addition inform the jury that they are the exclusive judges of all questions of fact. Either party may present to the court any written charge and request that it be given. If the court thinks it correct and pertinent, it must be given; if not, it must be refused. Upon each charge presented and given or refused the court must endorse or sign its decision. If part of any written charge be given and part refused the court must distinguish, showing by the endorsement or answer what part of each charge was given and what part refused.
R.L. 1910, § 5905.

§22-857. Jury after the charge.
After hearing the charge, the jury may either decide in court, or may retire for deliberation. If they do not agree without retiring, one or more officers must be sworn to keep them together in some private and convenient place, and not to permit any person to speak to or communicate with them, nor do so themselves, unless it be by order of the court, or to ask them whether they have agreed upon a verdict, and to return them into court when they have so agreed, or when ordered by the court.
R.L. 1910, § 5906. Amended by Laws 1997, c. 133, § 17, eff. July 1, 1999; Laws 1998, 1st Ex.Sess., c. 2, § 13, emerg. eff. June 19, 1998; Laws 1999, 1st Ex.Sess., c. 5, § 8, eff. July 1, 1999.
NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 17 from July 1, 1998, to July 1, 1999.

§22-858. Defendant admitted to bail may be committed during trial.
When a defendant who has given bail appears for trial, the court may, in its discretion, at any time after his appearance for trial order him to be committed to the custody of the proper officer of the

county to abide the judgment or further order of the court, and he must be committed and held in custody accordingly.
R.L.1910, § 5907.

§22-859. Substitute for district attorney failing or unable to attend trial or disqualified.

If the district attorney fails, or is unable to attend at the trial or is disqualified, the court must appoint some attorney at law to perform the duties of the district attorney on such trial.
R.L.1910, § 5908.

§22-860. Repealed by Laws 1998, c. 133, § 603, eff. July 1, 1999.
NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 603 from July 1, 1998, to July 1, 1999.

§22-860.1. Second or subsequent offenses – Trial procedure.

In all cases in which the defendant is prosecuted for a second or subsequent offense, except in those cases in which former conviction is an element of the offense, the procedure shall be as follows:

1. The trial shall proceed initially as though the offense charged was the first offense; when the indictment or information is read all reference to prior offenses shall be omitted; during the trial of the case no reference shall be made nor evidence received of prior offenses except as permitted by the rules of evidence; the judge shall instruct the jury only on the offense charged; the jury shall be further instructed to determine only the guilt or innocence on the offense charged, and that punishment at this time shall not be determined by the jury; and

2. If the verdict be guilty of the offense charged, that portion of the indictment or information relating to prior offenses shall be read to the jury and evidence of prior offenses shall be received. The court shall then instruct the jury on the law relating to second and subsequent offenses, and the jury shall then retire to determine the fact of former conviction, and the punishment, as in other cases.
Added by Laws 1999, 1st Ex.Sess., c. 5, § 438, eff. July 1, 1999.

§22-861. Formal exceptions to rulings or orders unnecessary.

Formal exceptions to rulings or orders of the court in criminal proceedings shall not be necessary but for all purposes for which an exception has heretofore been necessary at the trial of a cause it shall be sufficient that a party, at the time the ruling or order of the court has been made or sought, makes known to the court the action which he desires the court to take or his objection to the action of the court with his general grounds therefor.
Laws 1971, c. 144, § 1, eff. Oct. 1, 1971.

§22-891. Jury room - Expenses of providing, a county charge.

A room must be provided by the board of commissioners of a county for the use of the jury, upon their retirement for deliberation, with suitable furniture, fuel, lights and stationery. If the commissioners neglect, the court may order the sheriff to do so, and the expenses incurred by him in carrying the order into effect, when certified by the court, are a county charge.
R.L.1910; § 5910. R.L.1910, § 5912.

§22-893. Jury may have written instructions, forms of verdict and documents injury room - Copies of public or private documents.

On retiring for deliberation the jury may take with them the written instructions given by the court; the forms of verdict approved by the court, and all papers which have been received as evidence in the cause, except that they shall take copies of such parts of public records or private documents as ought not, in the opinion of the court, to be taken from the person having them in possession.
R.L.1910, § 5912.

§22-894. Jury brought into court for information - Presence of, or notice to, parties.

After the jury have retired for deliberation, if there be a disagreement between them as to any part of the testimony or if they desire to be informed on a point of law arising in the cause, they must require the officer to conduct them into court. Upon their being brought into court, the information required must be given in the presence of, or after notice to the district attorney and the defendant or his counsel, or after they have been called.
R.L.1910, § 5913.

§22-895. Illness of juror after retirement - Accident or cause preventing keeping together - Discharge.

If, after the retirement of the jury, one of them become so sick as to prevent the continuance of his duty, or any other accident or cause occur to prevent their being kept together for deliberation, the jury may be discharged.
R.L.1910, § 5914. R.L.1910, § 5914.

§22-896. Discharge after agreement on verdict or showing of inability to agree.

Except as provided in the last section, the jury cannot be discharged after the cause is submitted to them until they have agreed upon their verdict, and rendered it in open court, unless by the consent of both parties entered upon the minutes, or unless at the expiration of such time as the court deems proper, it satisfactorily appear that there is no reasonable probability that the jury can agree.

R.L.1910, § 5915.

§22-897. Retrial after discharge at same or other term.

In all cases where a jury are discharged or prevented from giving a verdict, by reason of an accident or other cause, except where the defendant is discharged from the indictment or information during the progress of the trial, or after the cause is submitted to them, the cause may be again tried at the same or another term, as the court may direct.
R.L.1910, § 5916.

§22-898. Court during jury's retirement - Sealed verdicts - Final adjournment for term discharges jury.

While the jury are absent the court may adjourn from time to time as to other business, but it is nevertheless deemed open for any purpose connected with the cause submitted to them until verdict is rendered or the jury discharged. If the jury agree on a verdict during a temporary adjournment or recess of the court, they may, upon the direction of the court, sign the verdict by their foreman, securely seal the same in an envelope, and deliver the same to the foreman, when they may separate until the next convening of the court, at which time they shall reassemble in the jury room and return their verdict in open court, when the same proceedings shall be had as in case of other verdicts. A final adjournment of the court for the term discharges the jury.
R.L.1910, § 5917.

§22-911. Return of jury into court upon agreement - Discharge on failure of some jurors to appear.

When the jury have agreed upon their verdict, they may be conducted into court by the officer having them in charge. Their names must then be called, and if all do not appear, the rest must be discharged without giving a verdict. In that case the cause must be again tried, at the same or another term.
R.L.1910, § 5918.

§22-912. Presence of defendant required in felony cases when verdict received - Discretionary in misdemeanor cases.

If the indictment or information is for a felony, the defendant must, before the verdict is received, appear in person. If it is for a misdemeanor, the verdict may, in the discretion of the court, be rendered in his absence.
R.L.1910, § 5919.

§22-913. Proceedings when jury appear.

When the jury appear, they must be asked, by the court or the clerk, whether they have agreed upon their verdict, and if the

foreman answers in the affirmative, they must, on being required, declare the same.
R.L.1910, § 5920.

§22-914. Form of verdict.

A general verdict upon a plea of not guilty, is either "guilty", or "not guilty", which imports a conviction or acquittal of the offense charged. Upon a plea of a former conviction or acquittal of the same offense, it is either "for the state", or "for the defendant". When the defendant is acquitted on the ground that he was insane at the time of the commission of the act charged, the verdict must be "not guilty by reason of insanity". When the defendant is acquitted on the ground of variance between the charge and the proof, the verdict must be "not guilty by reason of variance between charge and proof".
R.L.1910, § 5921.

§22-915. Degree of crime must be found.

Whenever a crime is distinguished into degrees, the jury, if they convict the defendant, must find the degree of the crime of which he is guilty.
R.L.1910, § 5922.

§22-916. Included offense or attempt may be found.

The jury may find the defendant guilty of any offense, the commission of which is necessarily included in that with which he is charged, or of an attempt to commit the offense.
R.L.1910, § 5923.

§22-917. Several defendants - Verdict as to part - Retrial as to defendants not agreed on.

On an indictment or information against several, if the jury cannot agree upon a verdict as to all, they may render a verdict as to those in regard to whom they do agree, on which a judgment must be entered accordingly, and the case as to the rest may be tried by another jury.
R.L.1910, § 5924.

§22-918. Jury may reconsider verdict of conviction for mistake of law - Return of same verdict.

When there is a verdict of conviction in which it appears to the court that the jury have mistaken the law, the court may explain the reason for that opinion, and direct the jury to reconsider their verdict, and if, after the reconsideration, they return the same verdict, it must be entered. But when there is a verdict of acquittal, the court cannot require the jury to reconsider it.
R.L.1910, § 5925.

§22-919. Informal verdict to be reconsidered.

If the jury render a verdict not in form, the court may, with proper instructions as to the law, direct them to reconsider it, and it cannot be recorded until it be rendered in some form from which it can be clearly understood what is the intent of the jury.
R.L.1910, § 5926.

§22-920. Judgment when jury persist in informal verdict.

If the jury persist in finding an informal verdict, from which, however, it can be clearly understood that their intention is to find in favor of the defendant upon the issue, it must be entered in the terms in which it is found, and the court must give judgment of acquittal. But no judgment of conviction can be given unless the jury expressly find against the defendant, upon the issue, or judgment be given against him on a special verdict.
R.L.1910, § 5927.

§22-921. Polling jury.

When a verdict is rendered, and before it is recorded, the jury may be polled on the requirement of either party, in which case they must be severally asked whether it is their verdict, and if any one answer in the negative, the jury must be sent out for further deliberation.
R.L.1910, § 5928.

§22-922. Recording and reading verdict - Disagreement of jurors entered upon minutes - Discharge if no disagreement.

When the verdict is given, and is such as the court may receive, the clerk must immediately record it in full upon the minutes, and the judge or the clerk must read it to the jury and inquire of them whether it is their verdict. If any juror disagree, the fact must be entered upon the minutes, and the jury again sent out; but if no disagreement is expressed, the verdict is complete, and the jury must be discharged from the case.
Amended by Laws 1985, c. 119, § 1, eff. Nov. 1, 1985.

§22-923. Defendant discharged on acquittal - Variance resulting in acquittal may authorize new charges.

If a judgment of acquittal is given on a general verdict, and the defendant is not detained for any other legal cause, he must be discharged as soon as judgment is given, except that when the acquittal is for a variance between the proof and the indictment or information which may be obviated by a new indictment or information the court may order his detention to the end that a new indictment or information may be preferred in the same manner and with like effect as provided in cases where the jury is discharged.

R.L.1910, § 5930.

§22-924. Commitment upon conviction.

If a general verdict is rendered against the defendant he must be remanded if in custody, or if on bail he may be committed to the proper officer of the county to await the judgment of the court upon the verdict. When committed his bail is exonerated, or if money is deposited instead of bail it must be refunded to the defendant.
R.L.1910, § 5931.

§22-925. Claim of insanity - Duty of court and jury - Commitment to institution.

When it is contended on behalf of the defendant in any criminal prosecution that such defendant is at the time of the trial a person who is impaired by reason of mental retardation, a mentally ill person, an insane person, or a person of unsound mind, the court shall submit to the jury a proper form of verdict, and if the jury finds the defendant not guilty on account of such insanity, mental illness, or unsoundness of mind, they shall so state in their verdict, and the court shall thereupon order the defendant committed to the state hospital for the mentally ill, or other state institution provided for the care and treatment of cases such as the one before the court, until the sanity and soundness of mind of the defendant be judicially determined, and such person be discharged from the institution according to law.
R.L. 1910, § 5932. Amended by Laws 1998, c. 246, § 14, eff. Nov. 1, 1998.

§22-926. Repealed by Laws 1998, c. 133, § 603, eff. July 1, 1999.
NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 603 from July 1, 1998, to July 1, 1999.

§22-926.1. Assessment of punishment by jury.

In all cases of a verdict of conviction for any offense against any of the laws of the State of Oklahoma, the jury may, and shall upon the request of the defendant assess and declare the punishment in their verdict within the limitations fixed by law, and the court shall render a judgment according to such verdict, except as hereinafter provided.
Added by Laws 1999, 1st Ex.Sess., c. 5, § 439, eff. July 1, 1999.

§22-927. Repealed by Laws 1998, c. 133, § 603, eff. July 1, 1999.
NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 603 from July 1, 1998, to July 1, 1999.

§22-927.1. Punishment assessed by court.

Where the jury finds a verdict of guilty, and fails to agree on the punishment to be inflicted, or does not declare such punishment by their verdict, the court shall assess and declare the punishment and render the judgment accordingly.
Added by Laws 1999, 1st Ex.Sess., c. 5, § 440, eff. July 1, 1999.

§22-928. Repealed by Laws 1998, c. 133, § 603, eff. July 1, 1999.
NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 603 from July 1, 1998, to July 1, 1999.

§22-928.1. Excess punishment to be disregarded by court.
If the jury assesses a punishment, whether of imprisonment or fine, greater than the highest limit declared by law for the offense of which they convict the defendant, the court shall disregard the excess and pronounce sentence and render judgment according to the highest limit prescribed by law in the particular case.
Added by Laws 1999, 1st Ex.Sess., c. 5, § 441, eff. July 1, 1999.

§22-929. Remand for vacation of sentence - New sentencing proceeding - Construction of section.
A. Upon any appeal of a conviction by the defendant in a noncapital criminal case, the appellate court, if it finds prejudicial error in the sentencing proceeding only, may set aside the sentence rendered and remand the case to the trial court in the jurisdiction in which the defendant was originally sentenced for resentencing. No error in the sentencing proceeding shall result in the reversal of the conviction in a criminal case unless the error directly affected the determination of guilt.
B. When a criminal case is remanded for vacation of a sentence, the court may:
1. Set the case for a nonjury sentencing proceeding; or
2. If the defendant or the prosecutor so requests in writing, impanel a new sentencing jury.
C. If a written request for a jury trial is filed within twenty (20) days of the date of the appellate court order, the trial court shall impanel a new jury for the purpose of conducting a new sentencing proceeding.
1. All exhibits and a transcript of all testimony and other evidence properly admitted in the prior trial and sentencing shall be admissible in the new sentencing proceeding. Additional relevant evidence may be admitted including testimony of witnesses who testified at the previous trial.
2. The provisions of this section are procedural and shall apply retroactively to any defendant sentenced in this state.
D. This section shall not be construed to amend or be in conflict with the provisions of Section 701.10 or 701.10a of Title 21 of the Oklahoma Statutes relating to sentencing and resentencing in

death penalty cases; Section 438 of this act relating to the trial procedure for defendants prosecuted for second or subsequent offense; or the provisions of Sections 439 and 440 of this act relating to assessment of punishment in the original trial proceedings.
Added by Laws 1990, c. 261, § 1, emerg. eff. May 24, 1990. Amended by Laws 1997, c. 133, § 18, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 9, eff. July 1, 1999.
NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 18 from July 1, 1998, to July 1, 1999.

§22-951. New trial defined - Proceedings on new trial - Former verdict no bar - Capital cases.

A. A new trial is a reexamination of the issue in the same court, before another jury, after a verdict has been given. The granting of a new trial places the parties in the same position as if no trial had been had. All the testimony must be produced anew except of witnesses who are absent from the state or dead, in which event the evidence of such witnesses on the former trial may be presented; and the former verdict cannot be used or referred to either in evidence or in argument, or be pleaded in bar of any conviction which might have been had under the indictment or information.

B. In capital cases, when an appeal has been taken and the cause has been remanded for a new trial, the court shall proceed as provided in subsection A of this section.

C. In capital cases, when an appeal has been taken and the cause has been remanded for resentencing, the prosecutor and court shall proceed as provided in Section 3 of this act.
R.L.1910, § 5936.

§22-952. Grounds for new trial - Affidavits and testimony.

A court in which a trial has been had upon an issue of fact has power to grant a new trial when a verdict has been rendered against a defendant by which his substantial rights have been prejudiced, upon his application in the following cases only:

First. When the trial has been in his absence, if the charge is for a felony.

Second. When the jury have received any evidence out of court, other than that resulting from a view of the premises.

Third. When the jury have separated without leave of the court, after retiring to deliberate on their verdict, and before delivering or sealing the same, if it be sealed, or have been guilty of any misconduct by which a fair and due consideration of the case has been prevented.

Fourth. When the verdict has been decided by lot, or by any means other than a fair expression of opinion on the part of the jury.

Fifth. When the court has misdirected the jury in a matter of law, or has erred in the decision of any question of law arising during the course of the trial.

Sixth. When the verdict is contrary to law or evidence.

Seventh. When new evidence is discovered, material to the defendant, and which he could not with reasonable diligence have discovered before the trial, or when it can be shown that the grand jury was not drawn summoned or impaneled as provided by law, and that the facts in relation thereto were unknown to the defendant or his attorney until after the trial jury in the case was sworn and were not of record. When a motion for a new trial is made on the ground of newly discovered evidence, the defendant must produce at the hearing in support thereof affidavits of witnesses, or he may take testimony in support thereof as provided in Section 5781, and if time is required by the defendant to procure such affidavits or testimony, the court may postpone the hearing of the motion for such length of time as under all the circumstances of the case may seem reasonable. The application for a new trial on the ground that the grand jury was not drawn summoned or impaneled as provided by law may be shown in like manner.

R.L.1910, § 5937.

§22-953. Time for applying for new trial - Limitations.

The application for a new trial must be made before judgment is entered; but the court or judge thereof may for good cause shown allow such application to be made at any time within thirty (30) days after the rendition of the judgment. A motion for a new trial on the ground of newly discovered evidence may be made within three (3) months after such evidence is discovered but no such motion may be filed more than one (1) year after judgment is rendered, and if on the ground that the grand jury was not properly drawn or impaneled then the motion must be made within thirty (30) days after the judgment is rendered.

R.L.1910, § 5938; Laws 1969, c. 117, § 1, emerg. eff. April 3, 1969.

§22-954. Motion in arrest of judgment - Definition - Grounds - Time for.

A motion in arrest of judgment is an application on the part of the defendant that no judgment be rendered on plea or verdict of guilty, or on a verdict against the defendant on a plea of former conviction or acquittal. It may be founded on any of the defects in the indictment or information mentioned as grounds of demurrer unless such objection has been waived by a failure to demur, and must be before or at the time the defendant is called for judgment.

R.L.1910, § 5939.

§22-955. Court may arrest on its own motion - Effect of allowing motion.

The court may also on its own view of any of these defects, arrest the judgment without motion. The effect of allowing a motion in arrest of judgment is to place the defendant in the same situation in which he was before the indictment or information was filed, and in no case of arrest of judgment is the verdict a bar to another prosecution.
R.L.1910, § 5940.

§22-956. Proceedings after motion for arrest of judgment sustained.

If, from the evidence on the trial, there is reasonable ground to believe the defendant guilty, and a new indictment can be framed upon which he may be convicted, the court may order him to be recommitted to the officer of the proper county, or admitted to bail anew to answer the new indictment or information. If the evidence shows him guilty of another offense, he must be committed or held thereon; but if no evidence appears sufficient to charge him with any offense, he must, if in custody, be discharged, or, if admitted to bail, his bail is exonerated, or if money has been deposited instead of bail, it must be refunded to the defendant, and the arrest of judgment operates as an acquittal of the charge upon which the indictment or information was founded.
R.L.1910, § 5941. R.L.1910, § 5941.

§22-961. Court appoints time for pronouncing judgment.

After a plea or verdict of guilty, or after a verdict against the defendant on a plea of a former conviction or acquittal, if the judgment is not arrested or a new trial granted, the court must appoint a time for pronouncing judgment.
R.L.1910, § 5942.

§22-962. Time for pronouncing verdict specified.

The time appointed must be at least two (2) days after the verdict, if the court intend to remain in session so long; or, if not, at as remote a time as can reasonably be allowed.
R.L.1910, § 5943.

§22-963. Defendant may be absent, when.

For the purpose of judgment, if the conviction is for misdemeanor judgment may be pronounced in the defendant's absence, unless such defendant is represented by an attorney of record, in which event, said attorney must be present unless said attorney waives appearance in writing or unless the said attorney has been notified of the time and date of imposition of judgment and fails to appear.
R.L.1910, § 5944; Laws 1968, c. 202, § 1, emerg. eff. April 19, 1968.

§22-964. Officer may be directed to produce prisoner.

When the defendant is in custody, the court may direct the officer in whose custody he is to bring him before it for judgment, and the officer must do so accordingly.
R.L.1910, § 5945.

§22-965. Warrant for defendant not appearing - Forfeiture of bond or bail money.

If the defendant has been discharged on bail, or has deposited money instead thereof, and does not appear for judgment when his personal attendance is necessary, the court, in addition to the forfeiture of the undertaking of bail or of money deposited, may direct the clerk to issue a bench warrant for his arrest.
R.L.1910, § 5946. 0

§22-966. Clerk to issue bench warrant - Several counties.

The clerk, on the application of the district attorney, may, accordingly, at any time after the order, whether the court be sitting or not, issue a bench warrant into one or more counties.
R.L.1910, § 5947.

§22-966A. Bench warrant, fee for issuance of.

For the issuance of each bench warrant for a defendant's failure to pay court costs, fines, fees, or assessments in felony, misdemeanor, or traffic cases, the court clerk shall charge and collect a fee of Five Dollars ($5.00). The fee shall be included in the execution bond amount on the face of the bench warrant which is issued for the defendant's failure to pay and shall be in addition to the delinquent amount owed by the defendant. This fee shall be deposited in the court clerk's revolving fund pursuant to the provisions of Section 220 of Title 19 of the Oklahoma Statutes.
Added by Laws 1995, c. 132, § 2, eff. Nov. 1, 1995.

§22-967. Form of bench warrant.

The bench warrant must be substantially in the following form:

County of .....

State of Oklahoma.

To any sheriff, constable, marshal or policeman in this state:

A B having been, on the ..... day of ..... A. D., 19...., duly convicted in the ..... court of the county of ..... of the crime of (designating it generally), you are therefore commanded forthwith to arrest the above-named A B and bring him before that court for judgment, or if the court has adjourned for the term, you are to deliver him into the custody of the sheriff of the county of ..... (as the case may be).

Given under my hand, with the seal of said court affixed, this ..... day of ..... A. D., 19....

By order of the court.
(Seal). E.F., Clerk.
R.L.1910, § 5948.

§22-968. Service of bench warrant, mode of.
The bench warrant may be served in any county, in the same manner as a warrant of arrest, except that when served in another county, it need not be endorsed by a magistrate of that county.
R.L.1910, § 5949.

§22-969. Defendant to be arrested.
Whether the bench warrant is served in the county in which it was issued or in another county, the officer must arrest the defendant and bring him before the court, or commit him to the officer mentioned in the warrant, according to the command thereof.
R.L.1910, § 5950.

§22-970. Defendant informed of proceedings.
When the defendant appears for judgment, he must be informed by the court, or by the clerk under its direction, of the nature of the indictment or information, and his plea and the verdict, if any thereon, and must be asked whether he has any legal cause to show why judgment should not be pronounced against him.
R.L.1910, § 5951.

§22-971. Defendant may show cause against judgment - Grounds - Proceedings.
The defendant may show for cause against the judgment:
1. That the defendant is insane; and if, in the opinion of the court, there is reasonable ground for believing the defendant to be insane, the question of the defendant's insanity must be tried as hereinafter in this chapter. If upon the trial of that question the jury finds that the defendant is sane, judgment must be pronounced. If the jury finds the defendant insane, the defendant may be committed to one of the state institutions or hospitals for the mentally ill, until the defendant becomes sane, or be otherwise committed according to law. When notice is given of that fact, as hereinafter provided, the defendant must be brought before the court for judgment.
2. That the defendant has good cause to offer, either in arrest of judgment, or for a new trial, in which case the court may order the judgment to be deferred, and proceed to decide upon the motion in arrest of judgment, or for a new trial.
R.L. 1910, § 5932. Amended by Laws 1998, c. 246, § 15, eff. Nov. 1, 1998.

§22-972. Rendition of judgment where cause against it not shown.

If no sufficient cause be alleged or appear to the court why judgment should not be pronounced it must thereupon be rendered.
R.L.1910, § 5953.

§22-973. Court may hear further evidence, when.

After a plea or verdict of guilty in a case where the extent of the punishment is left with the court, the court, upon the suggestion of either party that there are circumstances which may be properly taken into view, either in aggravation or mitigation of the punishment, may in its discretion hear the same summarily at a specified time and upon such notice to the adverse party as it may direct.
R.L.1910, § 5954.

§22-973a. Mitigating factor for veterans – PTSD.

A. When making a sentencing decision concerning a person who is a veteran, the court may consider as a mitigating factor that the person has been diagnosed as suffering from posttraumatic stress disorder resulting from his or her military service.

B. The defendant shall provide to the court documentary evidence that the defendant:

1. Has served in the Armed Forces of the United States of America in a combat zone, as defined in Section 112 of the Federal Internal Revenue Code of 1986. Proof of such service shall consist of a certification by the Director of the Department of Veterans Affairs; and

2. Has been diagnosed with a posttraumatic stress disorder connected to his or her service in the Armed Forces of the United States of America.

C. As used in this section, "posttraumatic stress disorder" means the same as such term is defined in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5, 2013), and occurred as a result of events during the service of the defendant in one or more combat zones.
Added by Laws 2016, c. 197, § 1, eff. Nov. 1, 2016.

§22-974. Testimony - How presented - Deposition of sick or infirm witness.

The circumstances must be presented by the testimony of witnesses examined in open court, except that when a witness is so sick or infirm as to be unable to attend, his deposition may be taken by a magistrate of the county out of court, at a specified time and place, upon such notice to the adverse party as the court may direct.
R.L.1910, § 5955.

§22-975. Other evidence in aggravation or mitigation of punishment prohibited.

No affidavit or testimony, or representation of any kind, verbal or written, can be offered to or received by the court or member thereof in aggravation or mitigation of the punishment, except as provided in the last two sections.
R.L.1910, § 5956.

§22-976. Concurrent sentences.

If the defendant has been convicted of two or more offenses, before judgment on either, the judgment may be that the imprisonment upon any one may commence at the expiration of the imprisonment upon any other of the offenses. Provided, that the sentencing judge shall, at all times, have the discretion to enter a sentence concurrent with any other sentence.
R.L. 1910, § 5957. Amended by Laws 1985, c. 20, § 2, eff. Nov. 1, 1985; Laws 1997, c. 133, § 68, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 19, eff. July 1, 1999.
NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 68 from July 1, 1998, to July 1, 1999.

§22-977. Entry of judgment of conviction - Papers to be filed by clerk - Obtaining date of birth and social security number of defendant.

A. When judgment upon a conviction is rendered, the clerk must enter the same upon the minutes, stating briefly the offense for which the conviction has been had, and must immediately annex together and file the following papers, which constitute a record of the action:

1. The indictment and a copy of the minutes of the plea or demurrer;

2. A copy of the minutes of the trial;

3. The charges given or refused, and the endorsements, if any, thereon; and

4. A copy of the judgment, which shall include a notation of the month and year of birth date of the defendant and the last four digits of the Social Security number of the defendant. The judgment shall also contain the statutory reference to the felony crime the defendant was convicted of and the date of the offense.

B. The court shall obtain the month and year of birth date of the defendant and the last four digits of the Social Security number of the defendant.
R.L. 1910, § 5960. Amended by Laws 1993, c. 202, § 1, eff. Sept. 1, 1993; Laws 2003, c. 294, § 1, eff. Nov. 1, 2003; Laws 2016, c. 348, § 4, eff. Nov. 1, 2016; Laws 2018, c. 173, § 1.

§22-978. Certified copy of judgment furnished to officer - Officer authorized to execute judgment except of death.

When a judgment, except of death, has been pronounced, a certified copy of the entry thereof, upon the minutes, must be forthwith furnished to the officer, whose duty it is to execute the judgment, and no other warrant or authority is necessary to justify or require its execution.
R.L.1910, § 5961.

§22-979. Execution of judgment by sheriff in certain cases - Delivery to proper officer in other cases.

When the judgment is imprisonment in a county jail, or a fine, and that the defendant be imprisoned until it be paid, the judgment must be executed by the sheriff of the county or subdivision. In all other cases when the sentence is imprisonment, the sheriff of the county must deliver the defendant to the proper officer, in execution of the judgment.
R.L.1910, § 5964.

§22-979a. Payment of jail costs by inmate.

A. The court shall require a person who is actually received into custody at a jail facility or who is confined in a city or county jail or holding facility, for any offense, to pay the jail facility or holding facility the costs of incarceration, both before and after conviction, upon conviction or receiving a deferred sentence. The costs of incarceration shall be collected by the clerk of the court as provided for collection of other costs and fines, which shall be subject to review under the procedures set forth in Section VIII of the Rules of the Oklahoma Court of Criminal Appeals, Chapter 18, Appendix of this title. Costs of incarceration shall include booking, receiving and processing out, housing, food, clothing, medical care, dental care, and psychiatric services. The costs for incarceration shall be an amount equal to the actual cost of the services and shall be determined by the chief of police for city jails and holding facilities, by the county sheriff for county jails or by contract amount, if applicable. In the event a person requires emergency medical treatment for an injury or condition that threatens life or threatens the loss or use of a limb prior to being actually received into the custody of any jail facility, the provisions of Section 533 of Title 21 of the Oklahoma Statutes shall apply to taking custody, medical care and cost responsibility. The cost of incarceration shall be paid by the court clerk, when collected, to the municipality, holding facility, county or other public entity responsible for the operation of such facility where the person was held at any time. Except for medical costs, ten percent (10%) of any amount collected by the court clerk shall be paid to the municipal attorney’s or district attorney’s office, and the remaining amount shall be paid to the municipality, the sheriff’s service fee account or, if the sheriff does not operate the jail

facility, the remaining amount shall be deposited with the public entity responsible for the operation of the jail facility where the person was held at any time. The court shall order the defendant to reimburse all actual costs of incarceration, upon conviction or upon entry of a deferred judgment and sentence unless the defendant is a mentally ill person as defined by Section 1-103 of Title 43A of the Oklahoma Statutes. The sheriff shall give notice to the defendant of the actual costs owed before any court-ordered costs are collected. The defendant shall have an opportunity to object to the amount of costs solely on the grounds that the number of days served is incorrect. If no objection is made, the costs may be collected in the amount stated in the notice to the defendant. The sheriff, municipality or other public entity responsible for the operation of the jail may collect costs of incarceration ordered by the court from the jail account of the inmate. If the funds collected from the jail account of the inmate are insufficient to satisfy the actual incarceration costs ordered by the court, the sheriff, municipality or other public entity responsible for the operation of the jail is authorized to collect the remaining balance of the incarceration costs by civil action. When the sheriff, municipality or other public entity responsible for the operation of the jail collects any court-ordered incarceration costs from the jail account of the inmate or by criminal or civil action, the court clerk shall be notified of the amount collected.

B. Except as may otherwise be provided in Section 533 of Title 21 of the Oklahoma Statutes, any offender receiving routine or emergency medical services or medications or injured during the commission of a felony or misdemeanor offense and administered any medical care shall be required to reimburse the sheriff, municipality or other public entity responsible for the operation of the jail, the full amount paid by the sheriff, municipality or other public entity responsible for the operation of the jail for any medical care or treatment administered to such offender during any period of incarceration or when the person was actually received into custody for any reason in that jail facility. The sheriff, municipality or other public entity responsible for the operation of the jail may deduct the costs of medical care and treatment as authorized by Section 531 of Title 19 of the Oklahoma Statutes. If the funds collected from the jail account of the inmate are insufficient to satisfy the actual medical costs paid, the sheriff, municipality or other public entity responsible for the operation of the jail shall be authorized to collect the remaining balance of the medical care and treatment by civil actions.

C. Costs of incarceration shall be a debt of the inmate owed to the municipality, county, or other public entity responsible for the operation of the jail and may be collected as provided by law for collection of any other civil debt or criminal penalty.

D. The court shall not waive the costs of incarceration in their entirety. However, if the court determines that a reduction in the fine, costs, and costs of incarceration is warranted, the court shall equally apply the same percentage reduction to the fine, costs, and costs of incarceration owed by the defendant.

Added by Laws 1990, c. 130, § 1, eff. Sept. 1, 1990. Amended by Laws 1990, c. 311, § 1, eff. Sept. 1, 1990; Laws 1996, c. 153, § 1, emerg. eff. May 7, 1996; Laws 1998, c. 290, § 3, eff. July 1, 1998; Laws 1999, c. 1, § 8, emerg. eff. Feb. 24, 1999; Laws 1999, c. 205, § 1, emerg. eff. May 25, 1999; Laws 2001, c. 258, § 7, eff. July 1, 2001; Laws 2003, c. 319, § 2; Laws 2004, c. 455, § 1; Laws 2005, c. 1, § 16, emerg. eff. March 15, 2005; Laws 2005, c. 470, § 2, emerg. eff. June 9, 2005; Laws 2008, c. 366, § 2, emerg. eff. June 3, 2008.

NOTE: Laws 1998, c. 209, § 1 repealed by Laws 1999, c. 1, § 45, emerg. eff. Feb. 24, 1999. Laws 2004, c. 275, § 11 repealed by Laws 2005, c. 1, § 17, emerg. eff. March 15, 2005. Laws 2005, c. 111, § 2 repealed by Laws 2005, c. 470, § 3, emerg. eff. June 9, 2005.

§22-980. Duty of sheriff when defendant sentenced to state prison.

If the judgment is for imprisonment in a state prison, the sheriff of the county or subdivision must, upon receipt of a certified copy thereof or authorized notification thereof, take and deliver the defendant to the warden of the Lexington Assessment and Reception Center or to a place determined by the Director of the Department of Corrections. The sheriff must also deliver to the Department of Corrections:

1. A certified copy of the judgment and sentence, unless the judgment and sentence has previously been sent electronically by an authorized clerk of the court;

2. A copy of any medical, dental, or mental health records of the defendant for conditions reviewed or treated while in the custody of the sheriff;

3. Any medication or medical or dental device prescribed for the defendant while in the custody of the sheriff or for a pre-existing condition;

4. Any forms required to be filed pursuant to the rules of the Court of Criminal Appeals at the time of the formal sentencing; and

5. Any forms of identification of the defendant that were in the possession of the defendant at the time of sentencing.

Upon delivery of the defendant with the required judgment, records and medication or devices, the sheriff must take from the Department of Corrections a receipt for the defendant, and make return thereof to the court.

R.L. 1910, § 5965. Amended by Laws 1978, c. 13, § 1, emerg. eff. Feb. 14, 1978; Laws 1998, c. 89, § 2, eff. July 1, 1998; Laws 1999, c. 51, § 1, eff. July 1, 1999; Laws 2003, c. 294, § 2, eff. Nov. 1, 2003; Laws 2004, c. 239, § 2, eff. July 1, 2004.

§22-981. Authority of officer while conveying prisoner - Assistance of citizens - Penalty for refusing assistance.

The sheriff or his deputy while conveying the defendant to the proper prison in execution of a judgment of imprisonment has the same authority to require the assistance of any citizen of this state in securing the defendant and in retaking him if he escape, as if the sheriff were in his own county, and every person who refuses or neglects to assist the sheriff, when so required, is punishable as if the sheriff were in his own county.

R.L.1910, § 5966. Amended by Laws 1982, c. 25, § 1, operative Oct. 1, 1982.

§22-982. Presentence investigation.

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

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

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

D. When conducting a presentence investigation, the Department shall inquire into the circumstances of the offense and the characteristics of the offender. The information obtained from the investigation shall include, but not be limited to, a voluntary statement from each victim of the offense concerning the nature of the offense and the impact of the offense on the victim and the immediate family of the victim, the amount of the loss suffered or incurred by the victim as a result of the criminal conduct of the offender, and the age, marital status, living arrangements, financial

obligations, income, family history and education, prior juvenile and criminal records, associations with other persons convicted of a felony offense, social history, indications of a predisposition to violence or substance abuse, remorse or guilt about the offense or the harm to the victim, job skills and employment history of the offender. The Department shall make a report of information from such investigation to the court, including a recommendation detailing the punishment which is deemed appropriate for both the offense and the offender, and specifically a recommendation for or against probation or suspended sentence. The report of the investigation shall be presented to the judge within a reasonable time, and upon failure to present the report, the judge may proceed with sentencing. Whenever, in the opinion of the court or the Department, it is desirable, the investigation shall include a physical and mental examination or either a physical or mental examination of the offender.

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

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

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

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

1. Arson in the first degree;

2. Assault with a dangerous weapon, battery with a dangerous weapon or assault and battery with a dangerous weapon;

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

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

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

6. Assault while masked or disguised;

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

8. Child beating or maiming;

9. Forcible sodomy;

10. Kidnapping, or kidnapping for extortion;

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

12. Manslaughter in the first or second degrees;

13. Murder in the first or second degrees;

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

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

16. Any attempt, solicitation or conspiracy to commit any of the above enumerated offenses.

Added by Laws 1967, c. 277, § 1, emerg. eff. May 8, 1967. Amended by Laws 1975, c. 369, § 1, emerg. eff. June 18, 1975; Laws 1982, c. 25, § 1, operative Oct. 1, 1982; Laws 1992, c. 319, § 1, eff. Sept. 1, 1992; Laws 1997, c. 328, § 1; Laws 2002, c. 460, § 18, eff. Nov. 1, 2002; Laws 2017, c. 170, § 1, eff. Nov. 1, 2017; Laws 2019, c. 326, § 1, eff. Nov. 1, 2019.

NOTE: Laws 1997, c. 133, § 19 repealed by Laws 1999, 1st Ex. Sess., c. 5, § 452, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex. Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 19 from July 1, 1998, to July 1, 1999.

§22-982a. Judicial review.

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

2. The court imposing sentence may modify the sentence of any offender who was originally sentenced for a drug charge and ordered to complete the Drug Offender Work Camp at the Bill Johnson Correctional Facility and direct that another sentence be imposed, if

the court is satisfied that the best interests of the public will not be jeopardized; provided, however, the court shall not impose a deferred sentence. An application for sentence modification pursuant to this paragraph may be filed and ruled upon beyond the initial sixty-month time period provided for in paragraph 1 of this subsection.

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

B. The court imposing the sentence may modify the sentence of any offender sentenced to life without parole for an offense other than a violent crime, as enumerated in Section 571 of Title 57 of the Oklahoma Statutes, who has served at least ten (10) years of the sentence in the custody of the Department of Corrections upon a finding that the best interests of the public will not be jeopardized. Provided; however, prior to granting a sentence modification under the provisions of this subsection, the court shall provide notice of the hearing to determine sentence modification to the victim or representative of the victim and shall allow the victim or representative of the victim the opportunity to provide testimony at the hearing. The court shall consider the testimony of the victim or representative of the victim when rendering a decision to modify the sentence of an offender.

C. For purposes of judicial review, upon court order or written request from the sentencing judge, the Department of Corrections shall provide the court imposing sentence or revocation of probation with a report to include a summary of the assessed needs of the offender, any progress made by the offender in addressing his or her assessed needs, and any other information the Department can supply on the offender. The court shall consider such reports when modifying the sentence or revocation of probation. The court shall allow the Department of Corrections at least twenty (20) days after receipt of a request or order from the court to prepare the required reports.

D. If the court considers modification of the sentence or revocation of probation, a hearing shall be made in open court after receipt of the reports required in subsection C of this section. The clerk of the court imposing sentence or revocation of probation shall give notice of the judicial review hearing to the Department of Corrections, the offender, the legal counsel of the offender, and the district attorney of the county in which the offender was convicted upon receipt of the reports. Such notice shall be mailed at least twenty-one (21) days prior to the hearing date and shall include a

copy of the report and any other written information to be considered at the judicial review hearing.

E. If an appeal is taken from the original sentence or from a revocation of probation which results in a modification of the sentence or modification to the revocation of probation of the offender, such sentence may be further modified in the manner described in paragraph 1 of subsection A of this section within sixty (60) months after the receipt by the clerk of the district court of the mandate from the Supreme Court or the Court of Criminal Appeals. Added by Laws 1983, c. 37, § 1, eff. Nov. 1, 1983. Amended by Laws 1997, c. 133, § 69, eff. July 1, 1999; Laws 1999, 1st Ex. Sess., c. 5, § 20, eff. July 1, 1999; Laws 2007, c. 358, § 6, eff. July 1, 2007; Laws 2009, c. 240, § 1, emerg. eff. May 21, 2009; Laws 2010, c. 2, § 8, emerg. eff. March 3, 2010; Laws 2012, c. 228, § 3, eff. Nov. 1, 2012; Laws 2015, c. 127, § 1, eff. Nov. 1, 2015; Laws 2016, c. 160, § 1, eff. Nov. 1, 2016; Laws 2018, c. 128, § 1, eff. Nov. 1, 2018.

NOTE: Laws 1998, 1st Ex. Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 69 from July 1, 1998, to July 1, 1999.

NOTE: Laws 2009, c. 275, § 1 repealed by Laws 2010, c. 2, § 9, emerg. eff. March 3, 2010.

§22-983. Imprisonment or recommendation of suspension of driving privileges for failure to pay fines, costs, fees or assessments - Hearing - Installments.

A. Any defendant found guilty of an offense in any court of this state may be imprisoned for nonpayment of the fine, cost, fee, or assessment when the trial court finds after notice and hearing that the defendant is financially able but refuses or neglects to pay the fine, cost, fee, or assessment. A sentence to pay a fine, cost, fee, or assessment may be converted into a jail sentence only after a hearing and a judicial determination, memorialized of record, that the defendant is able to satisfy the fine, cost, fee, or assessment by payment, but refuses or neglects so to do.

B. After a judicial determination that the defendant is able to pay the fine, cost, fee, or assessment in installments, the court may order the fine, cost, fee, or assessment to be paid in installments and shall set the amount and date for each installment.

C. In addition, the district court or municipal court, within one hundred twenty (120) days from the date upon which the person was originally ordered to make payment, may send notice of nonpayment of any court ordered fine and costs for a moving traffic violation to the Department of Public Safety with a recommendation of suspension of driving privileges of the defendant until the total amount of any fine and costs has been paid. Upon receipt of payment of the total amount of the fine and costs for the moving traffic violation, the court shall send notice thereof to the Department, if a nonpayment

notice was sent as provided for in this subsection. Notices sent to the Department shall be on forms or by a method approved by the Department.

D. The Court of Criminal Appeals shall implement procedures and rules for methods of establishing payment plans of fines, costs, fees, and assessments by indigents, which procedures and rules shall be distributed to all district courts and municipal courts by the Administrative Office of the Courts.

Added by Laws 1971, c. 341, § 5, emerg. eff. June 24, 1971. Amended by Laws 1990, c. 259, § 3, eff. Sept. 1, 1990; Laws 1991, c. 238, § 34, eff. July 1, 1991; Laws 1999, c. 359, § 6, eff. Nov. 1, 1999; Laws 2000, c. 159, § 1, emerg. eff. April 28, 2000; Laws 2000, c. 323, § 2, emerg. eff. June 5, 2000; Laws 2018, c. 128, § 2, eff. Nov. 1, 2018.

§22-983a. Authority to waive fines, costs and fees.

A. On or after November 1, 2016, the court shall have the authority to waive all outstanding fines, court costs and fees in a criminal case for any person who:

1. Served a period of imprisonment in the custody of the Department of Corrections after conviction for a crime;

2. Has been released from the custody of the Department of Corrections;

3. Has complied with all probation or supervision requirements since being released from the custody of the Department of Corrections; and

4. Has made installment payments on outstanding fines, court costs, fees and restitution ordered by the court on a timely basis every month for the previous twenty-four (24) months following release from the custody of the Department of Corrections.

B. The provisions of this section shall not apply to amounts owed by the person for restitution to a victim pursuant to a court order or child support obligations pursuant to a court order.

Added by Laws 2016, c. 392, § 1, eff. Nov. 1, 2016.

§22-983b. Released persons – Hearing to determine ability to pay fines, fees and costs.

A. Any person released on parole or released without parole from a term of imprisonment with the Department of Corrections shall be required to report at a time not less than one hundred eighty (180) days after his or her release from the Department of Corrections to:

1. The district court of the county from which the judgment and sentence resulting in incarceration arose; and

2. All other district courts or municipal courts where the person owes fines, fees, costs and assessments,

for the purpose of scheduling a hearing to determine the ability of the person to pay fines, fees, costs or assessments owed by the

person in every felony or misdemeanor criminal case filed in a district court or criminal case filed in a municipal court of this state. Such hearing shall be held in accordance with the provisions of Section VIII of the Rules of the Court of Criminal Appeals, 22 O.S. 2011, Ch. 18, App. A court may for good cause shown or in its discretion continue such hearing for up to one hundred eighty (180) days.

B. In determining the ability of the person to satisfy fines, fees, costs or assessments owed to a district or municipal court, the court shall inquire of the person at the time of the hearing which counties and municipalities the person owes fines, fees, costs or assessments in every felony or misdemeanor criminal case filed against the person and shall consider all court-ordered debt, including restitution and child support, in determining the ability of the person to pay. The person shall not be required to pay any outstanding fines, fees, costs or assessments prior to the expiration of the one-hundred-eighty-day period; provided, however, the person shall not be precluded from voluntarily making payment toward the satisfaction of any fines, fees, costs or assessments due and owing to a district or municipal court of this state.

C. The Court of Criminal Appeals shall promulgate rules governing the provisions of this section including, but not limited to:

1. Reporting, hearing and payment requirements as provided for in subsections A and B of this section;

2. Consolidating district and municipal court fines, fees, costs or assessments owed by a person into one order for payment; and

3. Accepting and distributing payments received for fines, fees, costs or assessments to various district and municipal courts when consolidated by the court into one order for payment.

Added by Laws 2016, c. 392, § 2, eff. Nov. 1, 2016.

§22-984. Repealed by Laws 2010, c. 135, § 18, eff. Nov. 1, 2010.

§22-984.1. Renumbered as § 142A-8 of Title 21 by Laws 2010, c. 135, § 19, eff. Nov. 1, 2010.

§22-984.2. Renumbered as § 142A-9 of Title 21 by Laws 2010, c. 135, § 20, eff. Nov. 1, 2010.

§22-984.3. Renumbered as § 142A-10 of Title 21 by Laws 2010, c. 135, § 21, eff. Nov. 1, 2010.

§22-984.4. Repealed by Laws 2010, c. 135, § 18, eff. Nov. 1, 2010.

§22-985. Short title - Justice Safety Valve Act.

Sections 2 and 3 of this act shall be known and may be cited as the "Justice Safety Valve Act".
Added by Laws 2015, c. 243, § 1, eff. Nov. 1, 2015.

§22-985.1. Departure from mandatory minimum sentencing – Requirements - Exceptions.

A. When sentencing a person convicted of a criminal offense for which there is a mandatory minimum sentence of imprisonment, the court may depart from the applicable sentence if the court finds substantial and compelling reasons on the record, after giving due regard to the nature of the crime, history, and character of the defendant and his or her chances of successful rehabilitation, that:

1. The mandatory minimum sentence of imprisonment is not necessary for the protection of the public; or

2. Imposition of the mandatory minimum sentence of imprisonment would result in substantial injustice to the defendant; or

3. The mandatory minimum sentence of imprisonment is not necessary for the protection of the public and the defendant, based on a risk and needs assessment, is eligible for an alternative court, a diversion program or community sentencing, without regard to exclusions because of previous convictions, and has been accepted to the same, pending sentencing.

B. The court shall not have the discretion to depart from the applicable mandatory minimum sentence of imprisonment on convictions for criminal offenses under the following circumstances:

1. The offense for which the defendant was convicted is among those crimes listed in Section 571 of Title 57 of the Oklahoma Statutes as excepted from the definition of "nonviolent offense";

2. The offense for which the defendant was convicted was a sex offense and will require the defendant to register as a sex offender pursuant to the provisions of the Sex Offenders Registration Act;

3. The offense for which the defendant was convicted involved the use of a firearm;

4. The offense for which the defendant was convicted is a crime listed in Section 13.1 of Title 21 of the Oklahoma Statutes requiring the defendant to serve not less than eighty-five percent (85%) of any sentence of imprisonment imposed by the judicial system prior to becoming eligible for consideration for parole;

5. The offense for which the defendant was convicted is a violation of the Trafficking in Illegal Drugs Act as provided in Sections 2-414 through 2-420 of Title 63 of the Oklahoma Statutes;

6. The defendant was the leader, manager or supervisor of others in a continuing criminal enterprise; or

7. The offense for which the defendant was convicted is a violation of the Oklahoma Antiterrorism Act as provided in Sections 1268 through 1268.8 of Title 21 of the Oklahoma Statutes.

C. Any departure from the mandatory minimum sentence as authorized in this section shall not reduce the sentence to less than twenty-five percent (25%) of the mandatory term.
Added by Laws 2015, c. 243, § 2, eff. Nov. 1, 2015. Amended by Laws 2018, c. 128, § 3, eff. Nov. 1, 2018.

§22-985.2. Departures report.

The district court clerk of each county shall submit a report of the departures in sentencing to the Clerk of the Court of Criminal Appeals on or before the first day of February of each year. On or before the first day of March of each year the Clerk of the Court of Criminal Appeals shall make available, in digital electronic format and on the website of the Oklahoma Court of Criminal Appeals, a report as to the number of departures from mandatory minimum sentences made by each judge in the state during the previous calendar year.
Added by Laws 2015, c. 243, § 3, eff. Nov. 1, 2015.

§22-987.1. Repealed by Laws 1999, 1st Ex.Sess., c. 5, § 452, eff. July 1, 1999.

§22-987.2. Repealed by Laws 1999, 1st Ex.Sess., c. 5, § 452, eff. July 1, 1999.

§22-987.3. Repealed by Laws 1999, 1st Ex.Sess., c. 5, § 452, eff. July 1, 1999.

§22-987.4. Repealed by Laws 1999, 1st Ex.Sess., c. 5, § 452, eff. July 1, 1999.

§22-987.5. Repealed by Laws 1999, 1st Ex.Sess., c. 5, § 452, eff. July 1, 1999.

§22-987.6. Repealed by Laws 1999, 1st Ex.Sess., c. 5, § 452, eff. July 1, 1999.

§22-987.7. Repealed by Laws 1999, 1st Ex.Sess., c. 5, § 452, eff. July 1, 1999.

§22-987.8. Repealed by Laws 2000, c. 39, § 4, emerg. eff. April 10, 2000.

§22-987.9. Repealed by Laws 1999, 1st Ex.Sess., c. 5, § 452, eff. July 1, 1999.

§22-987.10. Repealed by Laws 1999, 1st Ex.Sess., c. 5, § 452, eff. July 1, 1999.

§22-987.11. Repealed by Laws 1999, 1st Ex.Sess., c. 5, § 452, eff. July 1, 1999.

§22-987.12. Repealed by Laws 2000, c. 39, § 4, emerg. eff. April 10, 2000.

§22-987.13. Repealed by Laws 1999, 1st Ex.Sess., c. 5, § 452, eff. July 1, 1999.

§22-987.14. Repealed by Laws 1999, 1st Ex.Sess., c. 5, § 452, eff. July 1, 1999.

§22-987.15. Repealed by Laws 1999, 1st Ex.Sess., c. 5, § 452, eff. July 1, 1999.

§22-987.16. Repealed by Laws 1999, 1st Ex.Sess., c. 5, § 452, eff. July 1, 1999.

§22-987.17. Repealed by Laws 1999, 1st Ex.Sess., c. 5, § 452, eff. July 1, 1999.

§22-987.18. Repealed by Laws 1999, 1st Ex.Sess., c. 5, § 452, eff. July 1, 1999.

§22-987.19. Repealed by Laws 1999, 1st Ex.Sess., c. 5, § 452, eff. July 1, 1999.

§22-987.20. Repealed by Laws 1999, 1st Ex.Sess., c. 5, § 452, eff. July 1, 1999.

§22-987.21. Repealed by Laws 1999, 1st Ex.Sess., c. 5, § 452, eff. July 1, 1999.

§22-987.22. Repealed by Laws 1999, 1st Ex.Sess., c. 5, § 452, eff. July 1, 1999.

§22-987.23. Repealed by Laws 1999, 1st Ex.Sess., c. 5, § 452, eff. July 1, 1999.

§22-987.26. Repealed by Laws 1999, 1st Ex.Sess., c. 5, § 452, eff. July 1, 1999.

§22-988.1. Short title.

Sections 1 through 25 of this act shall be known and may be cited as the "Oklahoma Community Sentencing Act".

Added by Laws 1999, 1st Ex.Sess., c. 4, § 1, eff. July 1, 1999.

§22-988.2. Definitions — Duties of Chief Judge.

A. For purposes of the Oklahoma Community Sentencing Act:

1. "Local community sentencing system" means the use of public and private entities to deliver services to the sentencing court for punishment of eligible felony offenders under the authority of a community sentence;

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

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

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

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

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

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

8. "Eligible offender" means a felony offender who has been convicted of or who has entered a plea other than not guilty to a felony offense and who upon completion of a risk and needs assessment has been found to be in a range other than the low range and who is not otherwise prohibited by law, or is a person who has had an assessment authorized by Section 3-704 of Title 43A of the Oklahoma Statutes and the assessment recommends community sentencing. Provided, however, that no person who has been convicted of or who has entered a plea other than not guilty to an offense enumerated in paragraph 2 of Section 571 of Title 57 of the Oklahoma Statutes, as an exception to the definition of "nonviolent offense", shall be eligible for a community sentence or community punishment unless the district attorney or an assistant district attorney for the district in which the offender's conviction was obtained consents thereto. The district attorney may consent to eligibility for an offender who

has a mental illness or a developmental disability or a co-occurring mental illness and substance abuse disorder and who scores in the low range on the risk and needs assessment authorized by Section 3-704 of Title 43A of the Oklahoma Statutes or another assessment instrument if the offender is not otherwise prohibited by law. Any consent by a district attorney shall be made a part of the record of the case; and

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

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

Added by Laws 1999, 1st Ex. Sess., c. 4, § 2, eff. July 1, 1999. Amended by Laws 2004, c. 251, § 1, eff. July 1, 2004; Laws 2011, c. 218, § 1, eff. Nov. 1, 2011; Laws 2015, c. 331, § 1, eff. Nov. 1, 2015; Laws 2016, c. 222, § 3, eff. Nov. 1, 2016; Laws 2017, c. 42, § 11, eff. Aug. 25, 2017; Laws 2018, c. 128, § 4, eff. Nov. 1, 2018. NOTE: Laws 2015, c. 397, § 3 repealed by Laws 2016, c. 210, § 10, emerg. eff. April 26, 2016. Laws 2016, c. 210, § 9 repealed by Laws 2017, c. 42, § 12, eff. Aug. 25, 2017.

§22-988.3. Purpose of act.

The purposes of the Oklahoma Community Sentencing Act are to:

1. Protect the public;

2. Establish a statewide community sentencing system;

3. Adequately supervise felony offenders punished under a court-ordered community sentence;

4. Provide a series of sanctions to the court for eligible felony offenders sentenced to a community sentence within the community sentencing system;

5. Increase the availability of punishment and treatment programs to eligible felony offenders;

6. Improve the criminal justice system within this state through public/private partnerships, reciprocal and interlocal governmental agreements, and interagency cooperation and collaboration; and

7. Operate effectively within the allocation of state and local resources for the criminal justice system.

Added by Laws 1999, 1st Ex.Sess., c. 4, § 3, eff. July 1, 1999. Amended by Laws 2003, c. 341, § 2, eff. Nov. 1, 2003.

§22-988.4. Mandatory local system.

In jurisdictions where a community sentencing system has not been established prior to the effective date of this act, the Chief Judge of the Judicial District shall establish the geographic boundaries of a community sentencing system which shall be the boundaries of each county, unless the Chief Judge establishes one or more multicounty community sentencing systems consisting of two or more contiguous counties within the judicial district; provided, however, the consent of the sheriff of each affected county and each district attorney operating within each of the subject counties must be obtained before a county may join a proposed multicounty community sentencing system. Multicounty community sentencing systems may be established by the Chief Judge of a Judicial District with the consent of each local council affected in such manner as provided by rules promulgated by the Community Sentencing Division within the Department of Corrections.
Added by Laws 1999, 1st Ex.Sess., c. 4, § 4, eff. July 1, 1999.

§22-988.5. Community sentencing system planning councils.

A. A community sentencing system planning council shall be established for each jurisdiction defined by the judge as provided in Section 4 of this act.

B. Single county planning councils shall have membership as follows:

1. The Chief Judge of the Judicial District or a judge having duties within the county appointed by the Chief Judge of the Judicial District;

2. The district attorney for the county or an assistant district attorney appointed by the district attorney;

3. The county sheriff or a deputy sheriff appointed by the sheriff;

4. A county commissioner appointed by the board of county commissioners for the county; and

5. Three or more citizens elected by the other designated members.

C. Multicounty planning councils shall have membership consisting of at least the following:

1. The Chief Judge of the Judicial District, or a judge having duties within the jurisdiction appointed by the Chief Judge of the Judicial District;

2. A district attorney or an assistant district attorney appointed by a majority vote of all district attorneys participating in the multicounty system;

3. A county sheriff or a deputy sheriff appointed by a majority vote of all sheriffs participating in the multicounty system;

4. A county commissioner appointed by a majority vote of all county commissioners of the counties participating in the multicounty system; and

5. Three or more citizens from each of the counties participating in the multicounty system elected by the other designated members.

Nothing in this subsection shall preclude a multicounty system from adding members from each of the participating offices of the sheriff, district attorney, and board of county commissioners, provided the number of citizen members equals or is greater than the number of sheriffs, district attorneys, and county commissioners serving on the multicounty planning council.

D. In the event the required planning council has not been established as provided by subsection A of this section for any county or as provided in Section 4 of this act or should a council cease to actively function as determined by the Community Sentencing Division of the Department of Corrections, the Chief Judge of the Judicial District upon notification by the Division shall appoint five or more persons to serve as the planning council in addition to a designated judge. All membership appointments required by this subsection shall be made on or before the first day of October of each year. Every planning council shall have a judge who shall be either the Chief Judge of the Judicial District or a judge having duties within the jurisdiction appointed by the Chief Judge. The Chief Judge making the appointments of a planning council pursuant to the provisions of this subsection shall decide whether the planning council shall be a single county planning council or a multicounty planning council. If a Chief Judge of a Judicial District will not serve as a member of a planning council or make any of the required appointments, the Chief Justice of the Supreme Court shall direct another judge of the jurisdiction to make the appointments or serve as the designated judge.

E. Once a planning council has been established, it shall notify the Community Sentencing Division within the Department of Corrections of its membership, and thereafter the jurisdiction shall be eligible to receive technical assistance from the state in establishing the required local community sentencing system.

F. Each member of a planning council shall reside in or have employment duties in the jurisdiction to be served by the council. Members serving on a planning council who are elected officials shall have a term of office on the planning council concurrent with the term of the elected office, except when the person resigns or is otherwise removed as provided by the rules promulgated for the council or as authorized by law. All other members of the planning council shall have staggered terms of office not exceeding a three-year term. Planning council members may be reappointed upon the expiration of their terms. The Chief Judge of the Judicial District shall have the authority to remove any planning council member within the jurisdiction of the court district at any time for violation of the rules governing the local planning council.

G. Each planning council member shall have one vote, and a majority of voting members shall constitute a quorum. No vacancy shall impair the right of the remaining members to exercise all the duties of the planning council. Any vacancy occurring in the membership of a planning council shall be filled for the unexpired term of office in the same manner as the original selection.

H. The designated judge shall convene the initial meeting of the planning council within fifteen (15) days following the establishment of the council. At the initial meeting of the planning council, the membership shall elect a chair from its members who shall preside at all meetings of the council and perform such other duties as may be required by law. The planning council may elect another member as vice-chair who shall perform duties of the chair during any period of absence or upon the refusal or inability of the chair to act, a secretary who shall keep minutes of all meetings, and other officers as necessary.

I. Each planning council shall adopt written rules concerning meeting times, places, dates, conduct for disclosing and handling conflicts of interest, procedures for recommending service providers, procedures for removal and replacement of members for failure to attend a required number of meetings, procedures and timing for election of officers and any other provision necessary to implement the planning of a local system pursuant to the provisions of the Oklahoma Community Sentencing Act. The written rules promulgated by a planning council shall not be subject to the Administrative Procedures Act; provided, however, the rules shall be filed with the clerk of the district court or courts of the jurisdiction to be served by the community sentencing system. The rules may be amended by a majority vote of the planning council members after a thirty-day written notice detailing the change or addition has been filed with the court clerk where the original rules are filed.

J. Each planning council shall be subject to the provisions of the Oklahoma Open Meeting Act and the Oklahoma Open Records Act. Added by Laws 1999, 1st Ex.Sess., c. 4, § 5, eff. July 1, 1999.

§22-988.6. Planning council duties.

A. Each community sentencing planning council shall:

1. Plan the local community sentencing system within allocated funds and other available resources according to the provisions of the law and with the assistance of the Community Sentencing Division of the Department of Corrections;

2. Promulgate rules for functioning of the planning council which are consistent with the provisions of this act;

3. Prepare a detailed plan within the provisions of law and rule each fiscal year with an accompanying budget for the local community sentencing system;

4. Identify local resources by type, cost and location which are available to serve the court for eligible felony offenders sentenced to the community;

5. Identify qualified service providers to deliver services to the court for eligible felony offenders sentenced to the community;

6. Assist in monitoring the sentencing practices of the court to ensure the local community sentencing system functions within the allocation of resources and according to the provisions of this act;

7. Assist in preparing information necessary for qualified services to support the local community sentencing system plan as provided in Section 988.7 of this title;

8. Identify and advocate the use of interlocal governmental agreements for qualified services where services are not available within the jurisdiction or where services may be delivered in a more cost-effective manner by another jurisdiction;

9. Form multicounty systems as may be necessary to conserve state or local resources or to implement an appropriate range of services to the court;

10. Review and recommend services for cost-effectiveness and performance-based evaluation;

11. Identify various sources of funding and resources for the local community sentencing system including a variety of free services available to the court;

12. Assist in developing public/private partnerships in the local jurisdiction, reciprocal agreements, and interagency cooperation and collaboration to provide appropriate services and support to the system; and

13. Assist in promoting local involvement and support for the provisions of the Oklahoma Community Sentencing Act.

B. Each community sentencing planning council may employ a local director and other personnel to perform the duties of the local community sentencing system, subject to the availability of funds. Such council may contract with a county to provide benefits and payroll services to such personnel.

Added by Laws 1999, 1st Ex. Sess., c. 4, § 6, eff. July 1, 1999. Amended by Laws 2015, c. 331, § 2, eff. Nov. 1, 2015.

§22-988.7. Local system plan.

A. A detailed plan for each local community sentencing system seeking state funds shall be submitted each fiscal year to the Community Sentencing Division within the Department of Corrections pursuant to the rules promulgated for such purpose. The designated judge of the planning council shall review the range of services proposed in the plan and declare in writing whether the proposed services meet the needs of the court for purposes of sentencing pursuant to the authority of the Oklahoma Community Sentencing Act. The judge shall forward the plan to the Division for state review and

appropriate funding. A plan that conforms with the purposes and goals of the Oklahoma Community Sentencing Act shall not be modified or disapproved except when the plan requires more funding than is available to the local system. Each local community sentencing system plan shall include, but not be limited to, the following goals:

1. Identification of existing resources, including cash, professional services, in-kind resources, property, or other sources of resources;

2. Identification of additional resources needed, identified by type and amount;

3. Projected number of offenders to be served by each provider and the projected total number of offenders to be served by the local system;

4. Types and priority groups of offenders to be served for purposes of budgeting and targeting specific use of selected service providers;

5. Identification of sentencing practices used for disciplinary sanctions for noncriminal conduct against participating offenders and applicable costs;

6. Identification of local policy statements;

7. Methods for allocating resources to support the services included in the plan;

8. Identification and evaluation of local record keeping and needs for audits or reviews;

9. Identification of any special administrative structure of the local system and list of specific service providers participating in the system, including detailed qualifications of staff and program administrators; and

10. Description and evaluation of the extent of community participation and support for the local system.

B. A community sentencing system shall be operational when the plan is accepted by the Community Sentencing Division or is receiving funding. The Division, upon receipt of a proposed local system plan for conformance with the purpose and goals of the Oklahoma Community Sentencing Act, shall have not more than forty-five (45) days to evaluate the plan and to notify the planning council of any recommended modification. The Division shall notify the chair of each local community sentencing system of its allocated budget by June 15. Based on the funding allocation, the local community sentencing system shall submit its budget to the Division prior to finalizing provider service agreements for the fiscal year. The Division shall not restrict by rule or practice the plan of any local system or determine what constitutes treatment or necessary services if the treatment or services comply with the purposes and goals of the Oklahoma Community Sentencing Act, unless there is a demonstrated deficiency or poor program evaluation.

C. A local administrator as provided in Section 988.13 of this title shall assist the local planning council in gathering and keeping accurate information about the jurisdiction to support the planning process. For the previous two (2) years, the information pertaining to the jurisdiction may include, but not be limited to:

1. The number and rate of arrests, number of felony convictions, admissions to probation, number of offenders sentenced to post-imprisonment supervision, number of offenders sentenced to county jail, average length of sentence served in county jail, number of offenders sentenced to the custody of the Department of Corrections, and average length of sentence served in the custody of the Department of Corrections;

2. Current jail capacity, and jail population data by offender-type including, but not limited to, misdemeanor, felony, trusty, post-trial detainee, pretrial detainee, disciplinary sanction or juvenile;

3. A listing of services and programs available in the community, including costs, space availability, the number of offenders participating, the average length of participation and performance-based data;

4. Range of community punishments previously used by the courts for offenders within the jurisdiction, including methods and use of disciplinary sanctions for noncriminal behavior of offenders sentenced to community punishment and use of incentives;

5. A listing of educational, vocational-technical, health, mental health, substance abuse treatment, medical, and social services available to offenders or to be made available within a twelve-month period;

6. Restrictive residential facilities or other restrictive housing options available or to be made available within a twelve-month period; and

7. Approved local system plans and budgets.

Added by Laws 1999, 1st Ex.Sess., c. 4, § 7, eff. July 1, 1999. Amended by Laws 2002, c. 165, § 1, eff. July 1, 2002.

§22-988.8. Community services and sentencing options.

A. A community sentencing system established pursuant to the provisions of the Oklahoma Community Sentencing Act shall include those community punishments and programs and services enumerated and funded in the annual plan submitted to the Community Sentencing Division within the Department of Corrections and any other services or punishments subsequently added and funded during a plan year. The options may not be utilized for offenders not meeting the eligibility criteria of programs and score requirements for the risk and needs assessment. Each local system shall strive to have available to the court all of the following services for eligible offenders:

1. Community service with or without compensation to the offender;

2. Substance abuse treatment and availability for periodic drug testing of offenders following treatment;

3. Varying levels of supervision by the Department of Corrections probation officers or another qualified supervision source, including specialized supervision for repeat offenders, offenders with convictions for sex crimes, offenders with conviction for domestic violence offenses and offenders with diagnosed mental health needs;

4. Education and literacy provided by the State Department of Education, the county library system, the local school board, or another qualified source;

5. Employment opportunities and job skills training provided by the Oklahoma Department of Career and Technology Education or another qualified source;

6. Cognitive behavioral treatment and any other programming or treatment needs as identified based on the results of the risk and needs assessment administered under this section;

7. Enforced collections provided by the local court clerk, or another state agency; and

8. The availability of county jail or another restrictive housing facility for limited disciplinary sanctions.

B. The court may order as a community punishment for an eligible offender any condition listed as a condition available for a suspended sentence.

C. In all cases in which an offender is sentenced to a community punishment, the offender shall be ordered as part of the terms and conditions of the sentence to pay for the court ordered sanction, based upon ability to pay. Payments may be as provided by court order or pursuant to periodic payment schedules established by the service provider. If the offender does not have the financial ability to pay for the court ordered sanction, payment shall be made from funds budgeted for the local community sentencing system. Added by Laws 1999, 1st Ex. Sess., c. 4, § 8, eff. July 1, 1999. Amended by Laws 2001, c. 33, § 22, eff. July 1, 2001; Laws 2002, c. 165, § 2, eff. July 1, 2002; Laws 2018, c. 128, § 5, eff. Nov. 1, 2018.

§22-988.9. Fees and costs.

A. Any offender sentenced to a community sentence pursuant to the Oklahoma Community Sentencing Act which requires supervision shall be required to pay a supervision fee. The supervising agency shall establish the fee amount, not to exceed Forty Dollars ($40.00) per month, based upon the offender's ability to pay. In hardship cases the supervising agency may expressly waive all or part of the fee. No supervising agency participating in a local community

sentencing system shall deny any offender supervision services for the sole reason that the offender is indigent. Fees collected for supervision services performed by the Department of Corrections shall be paid directly to the Department to be deposited in the Department of Corrections Revolving Fund. Supervision services performed by contracted providers other than the Department shall be paid directly to that contracted provider.

B. In addition to any supervision fee, eligible offenders participating in a local community sentencing system under a court-ordered community punishment shall be required to pay an administrative fee to support the local system which shall not exceed Twenty Dollars ($20.00) per month to be set by the court. Administrative fees when collected shall be deposited with the Community Sentencing Division within the Department of Corrections and credited to the local community sentencing system for support and expansion of the local community corrections system. In the event the court fails to order the amount of the administrative fee, the fee shall be Twenty Dollars ($20.00) per month.

C. In addition to any supervision fee and administrative fee authorized by this section, the court shall assess court costs, and may assess program reimbursement costs, restitution, and fines to be paid by the offender. With the exception of supervision fees, other fees, costs, fines, restitution, or monetary obligations ordered to be paid by the offender shall not cease with the termination of active supervision and such obligations shall continue until fully paid and may be collected in the same manner as court costs. Added by Laws 1999, 1st Ex. Sess., c. 4, § 9, eff. July 1, 1999. Amended by Laws 2002, c. 165, § 3, eff. July 1, 2002; Laws 2011, c. 218, § 2, eff. Nov. 1, 2011; Laws 2019, c. 134, § 1, eff. Nov. 1, 2019.

§22-988.10. Resource-limited system.

A. It is the responsibility of the planning council, the sentencing judge, and the local administrator to ensure that the expenditure of funds within the local community sentencing system is appropriately made only for eligible offenders within the range of services offered to the court. It is further the responsibility of the local system, the prosecutor, the defense attorney, and sentencing court to keep an awareness of the local correctional resources and to utilize those resources in the most efficient manner when punishing eligible offenders with community punishments.

B. The sentencing judge when imposing any punishment pursuant to the provisions of the Oklahoma Community Sentencing Act shall consider the most cost-effective treatment specifically targeted for the offender's needs as determined by the Level of Services Inventory (LSI) report or assessment instrument.

C. The statewide system and each local system is required to monitor sentencing practices and eligibility requirements, prioritize expenditures, and operate within available resources for eligible offenders.

D. The Community Sentencing Division within the Department of Corrections shall not fund any community sentencing system beyond the accepted budget amounts in any fiscal year.

Added by Laws 1999, 1st Ex. Sess., c. 4, § 10, eff. July 1, 1999. Amended by Laws 2019, c. 134, § 2, eff. Nov. 1, 2019.

§22-988.11. Performance-based evaluations.

Each service provider contracting with the state pursuant to the Oklahoma Community Sentencing Act shall be required to have a performance-based evaluation within two (2) years of participating in a local community sentencing system. The initial performance-based evaluation of a program or service shall be made two (2) years from the date a program or service is first designated in the local system plan and funded, provided the program or service continues to be included in the local system plan during a second or subsequent plan year. After an initial evaluation, the program or service shall be reviewed annually when the program or service continues to be designated as part of the local system plan. The Community Sentencing Division within the Department of Corrections may establish other criteria for evaluating programs and services, and shall establish procedures by rule for review of the evaluations prior to any renewal of service provider agreements or selection of new service providers. Evaluations shall apply to state agencies offering services pursuant to the provisions of the Oklahoma Community Sentencing Act.

Added by Laws 1999, 1st Ex.Sess., c. 4, § 11, eff. July 1, 1999.

§22-988.12. Custody of offenders – Medical expenditures.

A. Any person sentenced to a community punishment pursuant to the provisions of the Oklahoma Community Sentencing Act shall not be deemed an inmate, nor shall the person be considered to be in the custody of the Department of Corrections, nor shall the person require processing through the Lexington Reception and Assessment Center. Persons sentenced to community punishment pursuant to the Oklahoma Community Sentencing Act shall be in community custody within the county.

B. Except as otherwise specifically provided by law, persons sentenced to a community punishment which does not include incarceration shall not have medical or dental expenses paid by the Department of Corrections or reimbursed by the Community Sentencing Division.

Added by Laws 1999, 1st Ex. Sess., c. 4, § 12, eff. July 1, 1999. Amended by Laws 2002, c. 165, § 4, eff. July 1, 2002; Laws 2008, c. 366, § 3, emerg. eff. June 3, 2008.

§22-988.13. Local administrator.

A. Each local community sentencing system shall collaborate with a local administrator who shall be employed by the Community Sentencing Division within the Department of Corrections. The local administrator shall have the duty to:

1. Assist in administering the day-to-day operation of the local community sentencing system within the approved budget and plan and according to the provisions of the Oklahoma Community Sentencing Act and any rules promulgated by the Division;

2. Assist the planning council in the jurisdiction in identifying resources, collecting data on sentencing practices, and preparing the annual plan and supporting budget;

3. Provide the court with a listing of available services within the local community sentencing system for purposes of imposing a community sentence;

4. Carry out court orders pursuant to the provisions of the Oklahoma Community Sentencing Act as provided in the offender's judgment and sentence;

5. Assist offenders in locating service providers who are participating in the local system according to the terms of the community sentence;

6. Report to the judge all completions and violations of court orders for community sentences or community punishments;

7. Keep accurate records for the local system and coordinate those records for monitoring by the Community Sentencing Division;

8. Monitor the local service providers to assure appropriate delivery of services to both the offender and the local system;

9. Coordinate support for the planning council and the sentencing court;

10. Ensure that restitution, reimbursements, fines, costs, and other payments and fees are paid to and deposited with the appropriate entity;

11. Report to the Community Sentencing Division within the Department of Corrections any complaints or service delivery problems;

12. Ensure criminal disposition reports on community sentences are made to appropriate state and federal agencies; and

13. Perform other functions as specified by the Community Sentencing Division within the Department of Corrections for purposes of implementing the provisions of the Oklahoma Community Sentencing Act.

B. The local administrator shall collaborate with and assist all existing county employees when a county has a preexisting community

program operated at county expense. In the event state funding is to be provided for continuing an existing program, the Division shall promulgate rules for continuing an existing program.

C. When a service provider is selected to be part of the local community sentencing system, the employees of that service provider shall not become employees of the county, the local community sentencing system, or the state by virtue of any contractual agreement or payments from the state.

Added by Laws 1999, 1st Ex.Sess., c. 4, § 13, eff. July 1, 1999.

§22-988.14. State agency - Creation.

A. There is hereby created within the Department of Corrections the "Community Sentencing Division". The purpose of the Division shall be to implement and administer the Oklahoma Community Sentencing Act and any provisions of law relating to the operation and management of a statewide community sentencing system.

B. The Community Sentencing Division shall employ an executive management staff consisting of a deputy director and such other employees as authorized by the Legislature and subject to appropriations, who shall be unclassified state employees. In addition to the executive management staff, there shall be an appropriate number of local community sentencing system administrators as authorized by the Legislature and subject to appropriations, who shall be unclassified state employees of the Division. The deputy director of the Division shall report directly to the Director of the Department of Corrections or designee. The Legislature shall provide the Department of Corrections sufficient funds for administrative support to the Division, and the Division shall have a separate legislative appropriation for the implementation and operation of the statewide community sentencing system pursuant to the provisions of the Oklahoma Community Sentencing Act. The Director of the Department of Corrections or designee shall hire and set the salary of the executive management staff. The deputy director of the Division shall hire the local administrators.

Added by Laws 1999, 1st Ex. Sess., c. 4, § 14, eff. July 1, 1999. Amended by Laws 2019, c. 134, § 3, eff. Nov. 1, 2019.

§22-988.15. Duties of state agency.

The Community Sentencing Division within the Department of Corrections shall have the duty to:

1. Administer a statewide community sentencing system pursuant to the provisions of the Oklahoma Community Sentencing Act and other provisions of law;

2. Establish goals and standards for the statewide community sentencing system and the local community sentencing systems;

3. Promulgate rules pursuant to the Administrative Procedures Act for the implementation and operation of the Oklahoma Community Sentencing Act;

4. Provide technical assistance and administrative support to each local community sentencing system. The technical assistance shall include, but not be limited to, information on:

a. corrections system design,
b. administration,
c. development, monitoring, and evaluating of programs and services,
d. program identification and specifications,
e. offender risk management,
f. supervision of offenders,
g. planning and budgeting,
h. grant applications, and
i. preparation and submission of documents, data, budgets, and system plans;

5. Coordinate and collaborate with other state agencies for services and technical assistance to each local community sentencing system;

6. Apply for and accept money and other assets to be utilized for support of a statewide community sentencing system and to allocate and disburse appropriated funds to local community sentencing systems through an appropriate funding method;

7. Review, analyze and fund local system plans within budgetary limitations;

8. Contract with local service providers and state agencies for services to the local system;

9. Identify and solicit other funding sources and resources to support the statewide community sentencing system;

10. Request post audits of state funds;

11. Monitor and coordinate local systems;

12. Provide performance-based evaluations for all service providers of the statewide system;

13. Report annually by January 15 to the Legislature and Governor on the statewide system. The report shall provide an evaluation of the effectiveness of the Oklahoma Community Sentencing Act in terms of public safety, appropriate range of community punishments, cost-effectiveness, performance-based effectiveness in reducing recidivism, utilization by the judiciary, resource allocation, and reduced state and local institutional receptions, if any; and

14. Disseminate information to local administrators and community sentencing systems concerning corrections issues including, but not limited to:

a. punishment options,
b. disciplinary sanctions,

c. resource allocation,
d. administration,
e. legal issues,
f. supervision and risk management,
g. treatment methodology and services,
h. education and vocational services,
i. service and program monitoring and evaluation methods,
j. grants and funding assistance,
k. data and record keeping, and
l. offender characteristics.

Added by Laws 1999, 1st Ex.Sess., c. 4, § 15, eff. July 1, 1999.

§22-988.16. Community sentencing system budgeting.

A. Each fiscal year the Division, in collaboration with the local planning councils, shall provide goals and funding priorities for community punishments as provided by law. The statewide community sentencing system shall be composed of local community sentencing system plans as approved by the Division. The Division shall promulgate rules for local community sentencing systems based upon objective criteria for allocation of state-appropriated funds to local systems for day-to-day operation during a fiscal year which may include identification of:

1. Fiscally responsible allocations of services and funds;
2. Innovative or effective programs of the local system; and
3. Appropriate targeting of offenders for services.

The Division and each of the local community sentencing systems are required to operate within the appropriated funds. The state shall require each local community sentencing system to identify resources other than state funds as part of the funding formula. The Division shall establish procedures for disbursement of state funds to service providers, and shall disburse state funds in a timely manner.

B. For a local community sentencing system to remain eligible for state funding, a local community sentencing system shall:

1. Demonstrate fiscal responsibility by operating the local system within the plan and budget allocation;
2. Require performance-based selection of service providers participating in the annual system plan;
3. Submit a plan which offers a continuum of sanctions for eligible offenders sentenced to the local community sentencing system and appropriately assign offenders for services; and
4. Comply with the rules promulgated by the Community Sentencing Division within the Department of Corrections and the provisions of the Oklahoma Community Sentencing Act.

C. When state funding is required to implement a local community sentencing system plan, the Community Sentencing Division shall approve the plan only to the extent that the jurisdiction's share of the total state appropriations will support the implementation of the

local system plan. Modification to a local plan shall be for budgetary purposes, as provided in Section 988.7 of this title, and for compliance with law and rule.

D. State funds from the Community Sentencing Division disbursed to community sentencing systems shall be used for operation and administrative expenses and shall not be used to construct, renovate, remodel, expand or improve any jail, residential treatment facility, restrictive housing facility, or any other structure, nor shall these funds be used to replace funding or other resources from the federal, state, county or city government committed in support of the detailed system plan during the plan year.

E. Any funds accruing to the benefit of a community sentencing system shall be deposited in the Oklahoma Community Sentencing Revolving Fund created as provided in Section 557.1 of Title 57 of the Oklahoma Statutes, and shall be credited to the local jurisdiction making such deposit. The Community Sentencing Division within the Department of Corrections and every local planning council are authorized to apply for and accept grants, gifts, bequests and other lawful money from nonprofit private organizations, for-profit organizations, political subdivisions of this state, the United States, and private citizens to support or expand the community sentencing system.

Added by Laws 1999, 1st Ex.Sess., c. 4, § 16, eff. July 1, 1999. Amended by Laws 2000, c. 39, § 1, emerg. eff. April 10, 2000; Laws 2002, c. 165, § 5, eff. July 1, 2002.

§22-988.17. Development and use of community sentence assessment and evaluation tests.

A. The Department of Corrections shall utilize the Level of Services Inventory (LSI) assessment instrument, or another assessment that evaluates criminal risk to recidivate, to evaluate all eligible offenders sentenced to community punishments under the Oklahoma Community Sentencing Act. This assessment shall not be waived and is required for eligibility determination.

B. The Administrative Office of the Courts shall assist in promulgating instructions and forms necessary for the courts' use of the required assessment. In collaboration with the Department of Corrections, all state agencies shall provide technical assistance necessary to implement and monitor the Oklahoma Community Sentencing Act in the areas of their expertise and experience, and shall offer services to local community sentencing systems.

C. All participating state agencies and local planning councils are directed to promulgate rules necessary to implement the provisions of the Oklahoma Community Sentencing Act. When promulgating the rules, participating state agencies and local planning councils shall collaborate with the Division so their rules enhance the effectiveness of the statewide community sentencing

system and statewide goals established for the criminal justice system.
Added by Laws 1999, 1st Ex.Sess., c. 4, § 17, eff. July 1, 1999.

§22-988.18. Assessment and evaluation of defendants.

A. On and after March 1, 2000, for each felony offender considered for any community punishment pursuant to the Oklahoma Community Sentencing Act, the judge shall, prior to sentencing, order an assessment and evaluation of the defendant as required by law. The judge may determine that no additional assessment is required if one was completed within the last six (6) months.

B. The risk and needs assessment and evaluation instrument designed to predict risk to recidivate approved by the Department of Corrections, shall be required to determine eligibility for any offender sentenced pursuant to the Oklahoma Community Sentencing Act. The completed assessment accompanied by a written supervision plan shall be presented to and reviewed by the court prior to determining any punishment for the offense. The purpose of the assessment shall be to identify the extent of the deficiencies and pro-social needs of the defendant, the potential risk to commit additional offenses that threaten public safety, and the appropriateness of various community punishments.

C. Upon order of the court, the defendant shall be required to submit to the risk and needs assessment which shall be administered and scored by an appropriately trained person pursuant to a service agreement with the local community sentencing system. Any defendant lacking sufficient skills to comprehend or otherwise participate in the assessment and evaluation shall have appropriate assistance. If it is determined that the offender cannot be adequately evaluated using the risk and needs assessment, the offender shall be deemed ineligible for any community services pursuant to the Oklahoma Community Sentencing Act, and shall be sentenced as prescribed by law for the offense.

D. The willful failure or refusal of the defendant to be assessed and evaluated by using the risk and needs assessment shall preclude the defendant from eligibility for any community punishment.

E. The completed risk and needs assessment, shall include a written supervision plan and identify an appropriate community punishment, if any, when the offender is considered eligible for community punishments based upon the completed risk/need score from the risk and needs assessment of the offender. Unless otherwise prohibited by law, only eligible offenders, as defined in Section 988.2 of this title, shall be eligible for any state-funded community punishments.

F. The court is not required to sentence any offender to a community punishment regardless of an eligible score on the risk and needs assessment. Any felony offender scoring in the low risk/need

levels on the risk and needs assessment may be sentenced to a suspended sentence with minimal, if any, conditions of the sentence to be paid by the offender. If the risk and needs assessment has been conducted, the evaluation report shall accompany the judgment and sentence, provided the risk and needs assessment indicates the offender is in need of this level of supervision and treatment. Added by Laws 1999, 1st Ex. Sess., c. 4, § 18, eff. July 1, 1999. Amended by Laws 2002, c. 165, § 6, eff. July 1, 2002; Laws 2011, c. 218, § 3, eff. Nov. 1, 2011; Laws 2018, c. 128, § 6, eff. Nov. 1, 2018; Laws 2019, c. 25, § 18, emerg. eff. April 4, 2019.
NOTE: Laws 2018, c. 85, § 1 repealed by Laws 2019, c. 25, § 19, emerg. eff. April 4, 2019.

§22-988.19. Sentencing.

A. When ordering a community sentence or community punishment, the court shall first impose a deferred or suspended sentence for the offense as prescribed by law, and shall then order the appropriate community punishment as a condition of that deferred or suspended sentence. The design of the community punishment shall be based upon the supervision and intervention report from the risk and needs assessment. The local community sentencing system administrator shall have authority for all offender placements within the local community sentencing system pursuant to the court-ordered community sentence.

B. Persons convicted of or pleading guilty or nolo contendere to a combination of misdemeanor and felony offenses may receive services from a local community sentencing system when the county agrees in writing to pay the Community Sentencing Division within the Department of Corrections for the actual costs of services used for misdemeanor cases. No state funds shall be used to pay for misdemeanor offenses.

C. Any time during the term of a community sentence, the court imposing the sentence may modify any previous provision as provided in this section.

D. Upon consideration of a properly filed motion to modify a community sentence pursuant to the provisions of this section, the staff of the community sentencing system in which the offender is ordered to participate, the sheriff, the district attorney, the service provider, or any agency or person providing supervision of the offender shall provide the court with any reports and other information available and relating to the offender, and to the reason for the motion to modify the sentence. The court shall consider any reports and information submitted prior to modifying the sentence.

E. If the court considers a motion to modify a community sentence, a hearing shall be held in open court. The notice of the hearing shall be given to the offender, the offender's legal counsel, and the district attorney of the county in which the offender was

convicted not less than ten (10) days prior to the hearing. A copy of any reports to be presented to the court shall accompany the notice of hearing.

F. Following the hearing, the court shall enter the appropriate order authorized by law. The court may modify any community sentence by imposing any other punishment allowed by law for the offense and appropriate for the circumstances as determined by the discretion of the judge; provided, however, no punishment shall be imposed which is greater than the maximum punishment allowed by law for the original offense. The court shall give the offender day-for-day credit on any modified sentence for any term of incarceration imposed. The court may impose either a disciplinary sanction or an incentive as provided in Section 988.20 of this title in lieu of or together with any modification authorized by this section.

G. The court shall not be limited on the number of modifications a sentence may have within the term of the community sentence.

H. Any offender who files a meritless or frivolous motion to modify a community sentence shall pay the costs of the proceeding and may be sanctioned as deemed appropriate by the court.

I. The court may revoke or accelerate a community punishment to the original sentence imposed during the term of the sentence. When a community sentence is revoked to state imprisonment, the court shall give a day-for-day credit for any term of incarceration actually served as community punishment.

Added by Laws 1999, 1st Ex. Sess., c. 4, § 19, eff. July 1, 1999. Amended by Laws 2018, c. 128, § 7, eff. Nov. 1, 2018.

§22-988.20. Disciplinary sanctions or incentives.

A. Upon proper motion to the court to modify a community sentence as provided in Section 988.19 of this title, the judge shall have authority to impose disciplinary sanctions or incentives. An order for a disciplinary sanction shall not modify the terms of the original sentence and shall be imposed only to gain compliance with the terms of the court-ordered community punishment. The court may order any community punishment available and funded in the jurisdiction that is deemed appropriate by the judge for the circumstance including, but not limited to, a term of imprisonment specified in Section 991b of this title per motion for modification in either:

1. The county jail;
2. A residential treatment facility;
3. A restrictive housing facility; or
4. A halfway house.

When the offender is to be confined, the sheriff shall, upon order of the court, deliver the offender to the designated place of confinement, provided the place of confinement has an agreement for confinement services with the local community sentencing system or is

the county jail. The sheriff shall be reimbursed by the local community sentencing system for transporting offenders pursuant to this subsection. The offender shall be given day-for-day credit for any terms of incarceration served in the county jail or other restrictive facility when the sentence is modified.

B. The court may, through a standing court order, provide for specific sanctions and incentives which may be utilized by the local administrator upon notification to the court.

C. When a motion for modification has been filed pursuant to Section 988.19 of this title, the court shall have authority to offer incentives to offenders to encourage proper conduct in the community and for compliance with the community punishments. The court shall use its discretion in ordering appropriate incentives. Incentives shall be considered a reduction and modification to the community punishment and may be ordered after the motion to modify has been heard.

D. When any offender is disciplined by the court as authorized by this section and is to be imprisoned in the county jail or other restrictive facility, the sheriff or facility administrator shall receive compensation as provided by their agreement with the local community sentencing system, or the sheriff or facility administrator shall be paid directly for the services by the offender when ordered to pay for the confinement as part of the disciplinary sanction. In no event shall any compensation for disciplinary confinement exceed the maximum amount provided for county jail confinement in Section 38.1 of Title 57 of the Oklahoma Statutes.

E. The Department of Corrections is prohibited from accepting offenders into any state penitentiary for disciplinary sanctions.
Added by Laws 1999, 1st Ex. Sess., c. 4, § 20, eff. July 1, 1999. Amended by Laws 2000, c. 39, § 2, emerg. eff. April 10, 2000; Laws 2018, c. 128, § 8, eff. Nov. 1, 2018.

§22-988.21. Earned credits.

Any law directing earned credits during periods of imprisonment or otherwise, including Sections 20, 58.3, 138, 138.1 and 224 of Title 57 of the Oklahoma Statutes and Section 615 of Title 69 of the Oklahoma Statutes, shall not be applicable to persons sentenced to a community sentence pursuant to the provisions of the Oklahoma Community Sentencing Act. Day-for-day credits for any term of incarceration served as part of a community punishment shall be given to offenders who have community sentences revoked to county jail or state prison and also shall be given when a community sentence is modified.
Added by Laws 1999, 1st Ex.Sess., c. 4, § 21, eff. July 1, 1999.

§22-988.22. Completion of community sentence.

A. Any offender ordered to participate in the local community sentencing system shall be advised of the conditions of the specific program or service to which he or she is assigned.

B. Upon completion of any court-ordered provision, pursuant to the Oklahoma Community Sentencing Act, the administrator of the local system shall file a statement with the court defining the provision which has been successfully completed. When all court-ordered provisions have been successfully completed the defendant shall be deemed to have completed the community punishment.

C. The provisions of the Oklahoma Community Sentencing Act shall not confer any rights upon the defendant to avoid a term of imprisonment prescribed by law for the offense, nor grant any additional rights to appeal for failure to be offered any specific punishment or treatment option available to the court.

D. A community sentence pursuant to the Oklahoma Community Sentencing Act shall not require active supervision, programs or services for more than three (3) years, but may continue beyond the three-year limitation for purpose of completing court-ordered restitution payments.

Added by Laws 1999, 1st Ex. Sess., c. 4, § 22, eff. July 1, 1999. Amended by Laws 2002, c. 165, § 7, eff. July 1, 2002; Laws 2018, c. 128, § 9, eff. Nov. 1, 2018.

§22-988.23. Immunity from liability.

All state and local government agencies and their officers and employees, citizens serving as members of a community sentencing planning council, community service agencies, nonprofit organizations, educational or vocational-technical entities, and other providers participating in a community sentencing system or contracting to provide services to the system pursuant to the provisions of the Oklahoma Community Sentencing Act are hereby granted immunity from liability for acts of any offender participating in a community sentencing system pursuant to the provisions of the Administrative Workers' Compensation Act and for torts committed by or against any offender participating in a community sentencing system to the extent specified in Sections 227 and 228 of Title 57 of the Oklahoma Statutes or as provided in the Governmental Tort Claims Act.

Added by Laws 1999, 1st Ex. Sess., c. 4, § 23, eff. July 1, 1999. Amended by Laws 2015, c. 331, § 3, eff. Nov. 1, 2015.

§22-988.24. Community sentencing program pilot projects for persons whose suspended sentences have been revoked.

The Department of Corrections may establish pilot projects that allow a person whose suspended sentence has been revoked by the court to participate in the community sentencing program, subject to the availability of funds.

Added by Laws 2002, c. 91, § 1, eff. July 1, 2002.

§22-990. Repealed by Laws 1999, 1st Ex.Sess., c. 5, § 452, eff. July 1, 1999.

§22-990.1. Uniform supervision form - Requisites.

A. The Administrative Office of the Courts in collaboration with the Department of Corrections through both the Community Corrections/ Probation and Parole Division and the Community Sentencing Division shall establish a uniform supervision form to be distributed to and used by the district courts of this state for felony offenders sentenced to supervision under a sentence of probation, a suspended sentence, a split sentence, a delayed sentence, and a community sentence. The form shall comply with the provisions of Section 990 of Title 22 of the Oklahoma Statutes and any other statutory authority for supervision of court orders. The form shall provide sufficient space for the sentencing judge to write orders for specific conditions of the sentence as provided in paragraph B of Section 987.8 of Title 22 of the Oklahoma Statutes and for orders enumerating amounts, schedules, and designation of payments for restitution, reimbursements, repayments, costs, fees, court costs, and statutory fines. The form shall be completed and implemented by July 1, 1998.

B. The Administrative Office of the Courts shall promulgate rules necessary to carry out the implementation of the provisions of this section by the judiciary. The Department of Corrections through both the Community Corrections/Probation and Parole Division and the Community Sentencing Division shall promulgate rules necessary to carry out the implementation of the provisions of this section by persons under their authority.

Added by Laws 1998, c. 191, § 1.

§22-990a-1. Repealed by Laws 1999, 1st Ex.Sess., c. 5, § 452, eff. July 1, 1999.

§22-990a-1.1. Sentencing procedures.

When sentencing an eligible offender on or after March 1, 2000, to a community punishment, the sentencing court shall impose a deferred or suspended sentence and then proceed to determine at the sentencing hearing the terms and conditions of the community punishment which shall be ordered as conditions of the deferred or suspended sentence.

Added by Laws 1999, 1st Ex.Sess., c. 4, § 24, eff. July 1, 1999.

§22-991a. See the following versions:

OS 22-991av1 (SB 1068, Laws 2019, c. 453, § 1).

OS 22-991av2 (HB 3718, Laws 2018, c. 304, § 10).

§22-991a-2. Nonviolent felony offenders - County jail imprisonment - Fines and costs.

A. Any person who has been convicted of a nonviolent felony offense in this state may be sentenced, at the discretion of the judge, to incarceration in the county jail for a period of one or more nights or weekends with the remaining portion of each week being spent under supervision. County jail imprisonment pursuant to the provisions of this section for felony offenders shall be:

1. Prescribed by law for the particular felony; or

2. A condition of a suspended sentence.

B. In addition to incarceration, the court may impose any fine, cost assessment, or other punishment provision allowed by law; provided, however, the punishment when taken in its entirety with the jail term shall not impose a greater punishment than allowed by law for the offense.

C. Any person incarcerated in the county jail pursuant to the provisions of this section may be assigned work duties as ordered or approved by the judge. The sentencing court may require a person incarcerated pursuant to the provisions of this section to pay the county, for food and maintenance for each day of incarceration, an amount equal to the maximum amount prescribed by law to be paid by the county to the sheriff for such expenses. If the judge does not so order, the Department of Corrections shall reimburse the county for the cost of feeding and care of the person during such periods of incarceration.

D. Any person incarcerated pursuant to the provisions of this section shall not be considered to be in the custody of the Department of Corrections or an inmate of the Department. The person shall be deemed to be in the custody of the county.

E. When the court sentences a person to incarceration pursuant to the provisions of this section in conjunction with a suspended sentence, the court shall have the authority to revoke any unserved portion of the suspended sentence as provided by law.

F. For the purposes of subsection A of this section, weekend incarceration shall commence at 6 p.m. on Friday and continue until 8 a.m. on the following Monday, and incarceration overnight shall commence at 6 p.m. on one day and continue until 8 a.m. of the next day. Provided, that the sentencing judge may modify the incarceration times if the circumstances of the particular case require such action. Persons who have been sentenced to incarceration in the county jail under the provisions of this section will not have to be processed through the Lexington Assessment and Reception Center prior to incarceration.

Added by Laws 1983, c. 130, § 1, emerg. eff. May 19, 1983. Amended by Laws 1997, c. 133, § 66, eff. July 1, 1999; Laws 1999, 1st Ex. Sess., c. 5, § 17, eff. July 1, 1999; Laws 1999, 1st Ex. Sess., c. 4,

§ 26, eff. July 1, 1999; Laws 2008, c. 366, § 4, emerg. eff. June 3, 2008.
NOTE: Laws 1998, 1st Ex. Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 66 from July 1, 1998, to July 1, 1999.

§22-991a-3. Restitution of buyer of property unlawfully obtained.

A. Upon a verdict or plea of guilty or upon a plea of nolo contendere for an offense in which any property is unlawfully obtained and the property is sold, traded, bartered, pledged or pawned, the court may order the defendant to provide restitution to the buyer, recipient or pledgee of the property for the value of any consideration paid, loaned or given for the property unless the buyer, recipient or pledgee has violated the provisions of Section 1092, 1093 or 1713 of Title 21 of the Oklahoma Statutes. Such restitution shall be in addition to any restitution to the victim and shall be in addition to any other penalties provided by law. Restitution to the buyer, recipient or pledgee shall be ordered pursuant to the provisions of subparagraph a of paragraph 1 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes.

B. The buyer of any property which has been unlawfully obtained and which is lawfully returned to its rightful owner shall have the right to bring a civil action against the person who sold, traded, bartered, pledged or pawned the property for the value of any consideration paid, loaned or given for the property unless the buyer has violated the provisions of Section 1092, 1093 or 1713 of Title 21 of the Oklahoma Statutes.
Added by Laws 1987, c. 152, § 1, eff. Nov. 1, 1987.

§22-991a-4. Repealed by Laws 1999, 1st Ex.Sess., c. 5, § 452, eff. July 1, 1999.

§22-991a-4.1. Community Service Sentencing Program.

A. There is hereby re-created the "Community Service Sentencing Program". This program is a continuation of the program established in 1988 by Section 991a-4 of Title 22 of the Oklahoma Statutes. The purpose of the program shall be to provide an alternative to incarceration for nonviolent felony offenders who would normally be sentenced to incarceration in a state institution.

B. Any eligible offender may be sentenced, at the discretion of the judge, to a Community Service Sentencing Program pursuant to the provisions of this section. For purposes of this section, "eligible offender" shall mean any person who:

1. Is not participating in the Delayed Sentencing Program for Young Adults pursuant to the provisions of Sections 996 through 996.3 of Title 22 of the Oklahoma Statutes;

2. Has not previously been convicted of two or more felonies;

3. Has been convicted of a nonviolent felony offense which shall be defined as any felony offense except assault and battery with a dangerous weapon, aggravated assault and battery on a law officer, poisoning with intent to kill, shooting with intent to kill, assault with intent to kill, assault with intent to commit a felony, murder in the first degree, murder in the second degree, manslaughter in the first degree, manslaughter in the second degree, kidnapping, burglary in the first degree, kidnapping for extortion, maiming, robbery, child beating, wiring any equipment, vehicle, or structure with explosives, forcible sodomy, rape in the first degree or rape by instrumentation, lewd or indecent proposition or lewd or indecent act with a child under sixteen (16) years of age, use of a firearm or offensive weapon to commit or attempt to commit a felony, pointing firearms, rioting or arson in the first degree;

4. Has properly completed and executed all necessary documents; and

5. Is not otherwise ineligible by law or court rule.

C. The Department of Corrections shall administer the Program, except in counties with a population of five hundred fifty thousand (550,000) or more persons that operate an existing program. The Department shall conduct a presentence investigation pursuant to the provisions of Section 982 of Title 22 of the Oklahoma Statutes if the court determines the offender is to be assigned to the Program. As part of such presentence investigation, the Department shall interview the offender and advise the offender of the requirements and conditions of the Program. The Department shall recommend an assignment of the offender to any one or combination of the following areas:

1. Community service, with or without compensation;

2. Education, vocational-technical education or literacy programs;

3. Substance abuse treatment programs;

4. Periodic testing for the presence of controlled substances;

5. Psychological counseling or psychiatric treatment;

6. Medical treatment;

7. Restitution, to be paid either to the victim of the offense or to the Crime Victims Compensation Revolving Fund created pursuant to the provisions of Section 142.17 of Title 21 of the Oklahoma Statutes;

8. Confinement in a county jail for a period not to exceed one (1) year, night or weekend incarceration pursuant to the provisions of Section 991a-2 of Title 22 of the Oklahoma Statutes or incarceration by the Department of Corrections; provided, the Department of Corrections shall reimburse a county which does not receive payments from any other source for the cost of the necessary expenses of such persons during periods of such incarceration in an amount not to exceed Twenty Dollars ($20.00) per day and any county

receiving such payments in an amount not to exceed Ten Dollars ($10.00) per day. The Department shall reimburse the county for the actual cost paid for any emergency medical care for physical injury or illness of such persons if the county is required by law to provide such care for inmates in the jail. The reimbursements provided by this section shall not exceed the cost that would have accrued to the state for the feeding, care or medical care of the persons had they been incarcerated with the Department. Except as otherwise provided by law, all provisions of the Oklahoma Corrections Act of 1967, Section 501 et seq. of Title 57 of the Oklahoma Statutes, shall apply to such persons, including but not limited to any provisions requiring payment by such persons of the costs of incarceration; or

9. Probation or conditional probation.

D. In counties with a population of five hundred fifty thousand (550,000) or more persons that operate an existing program, the Department of Corrections is hereby authorized to reimburse the county sheriff, pursuant to paragraph 8 of subsection C of this section, the cost of necessary expenses for confinement in the county jail for any eligible offender as defined in subsection B of this section. Such reimbursement shall be subject to appropriation by the Legislature. The Department may promulgate rules and procedures for submitting claims for reimbursements.

E. The judge shall consider the criminal history of the offender, the nature of the offender's criminal conduct, the employment and family history of the offender and any other factors the judge deems relevant when sentencing persons to the Program. Following the presentence investigations and recommendation, the judge shall impose sentence. The judge may accept the recommendation, with or without modifications thereto, or may reject the recommendation and impose any sentence allowed by law.

F. The provisions of Sections 20, 58.3, 138, 138.1 and 224 of Title 57 of the Oklahoma Statutes and Section 615 of Title 69 of the Oklahoma Statutes and any other provisions of law relating to earned credits for certain acts or service shall not apply to persons participating in the Program. The judge may establish a schedule of earned credits as part of the sentence.

G. The Department shall establish a list of federal, state and local government agencies, community service agencies, nonprofit organizations, educational programs and other treatment programs willing to participate in the program to which offenders may be referred. The Department shall periodically contact agencies, organizations and programs to which offenders are assigned to determine if offenders have reported and performed satisfactorily. Any such agency or program shall immediately notify the Department if an offender fails to fulfill any requirement of the Program. The

Department or the sentencing judge may require additional documentation of the offender's work performance.

H. The Department shall ensure that the sentencing judge and prosecuting attorney are notified in writing when an offender has successfully completed the assigned community service hours or other requirements of the Program or has failed to complete the requirements and provide any other relevant information required by the sentencing judge or prosecuting attorney.

I. All state and local government agencies, community service agencies, nonprofit organizations, educational programs and other treatment programs participating in the Program are hereby immune from liability for any offender participating in the Program under the Workers' Compensation Act, Section 1 et seq. of Title 85 of the Oklahoma Statutes, and for torts committed by or against any offender participating in the Program to the extent specified in Sections 227 and 228 of Title 57 of the Oklahoma Statutes.

J. Any offender participating in the Program shall be advised of the provisions of this section and shall, in writing, acknowledge that the offender has been advised of and understands the provisions of the Program.

Added by Laws 1999, 1st Ex.Sess., c. 5, § 18, eff. July 1, 1999.

§22-991a-5. Repealed by Laws 1998, c. 133, § 603, eff. July 1, 1999.
NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 603 from July 1, 1998, to July 1, 1999.

§22-991a-6. Repealed by Laws 1998, c. 133, § 603, eff. July 1, 1999.
NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 603 from July 1, 1998, to July 1, 1999.

§22-991a-7. Repealed by Laws 1998, c. 133, § 603, eff. July 1, 1999.
NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 603 from July 1, 1998, to July 1, 1999.

§22-991a-8. Repealed by Laws 1998, c. 133, § 603, eff. July 1, 1999.
NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 603 from July 1, 1998, to July 1, 1999.

§22-991a-9. Repealed by Laws 1998, c. 133, § 603, eff. July 1, 1999.
NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 603 from July 1, 1998, to July 1, 1999.

§22-991a-10. Repealed by Laws 1998, c. 133, § 603, eff. July 1, 1999.
NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 603 from July 1, 1998, to July 1, 1999.

§22-991a-11. Repealed by Laws 1998, c. 133, § 603, eff. July 1, 1999.
NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 603 from July 1, 1998, to July 1, 1999.

§22-991a-12. Repealed by Laws 1998, c. 133, § 603, eff. July 1, 1999.
NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 603 from July 1, 1998, to July 1, 1999.

§22-991a-13. Short title.
Sections 442 through 449 of this act shall be known and may be cited as the "Elderly and Incapacitated Victim's Protection Program". Added by Laws 1999, 1st Ex.Sess., c. 5, § 442, eff. July 1, 1999.

§22-991a-14. Purpose.
The purpose and intent of the Elderly and Incapacitated Victim's Protection Program is to provide enhanced sentencing for persons committing certain offenses against elderly or incapacitated persons. Added by Laws 1999, 1st Ex.Sess., c. 5, § 443, eff. July 1, 1999.

§22-991a-15. Definitions.
As used in the Elderly and Incapacitated Victim's Protection Act:
1. "Elderly person" means any person sixty-two (62) years of age or older; and
2. "Incapacitated person" means any person who is disabled by reason of mental or physical illness or disability to such extent the person lacks the ability to effectively protect self or property. Added by Laws 1999, 1st Ex.Sess., c. 5, § 444, eff. July 1, 1999. Amended by Laws 2008, c. 314, § 3, eff. July 1, 2008.

§22-991a-16. Offenses to which program applies.
The provisions of the Elderly and Incapacitated Victim's Protection Act shall apply to any person convicted of one or more of the following offenses where the victim is an elderly or incapacitated person as defined in Section 991a-15 of this title:
1. Assault, battery, or assault and battery with a dangerous weapon;
2. Aggravated assault and battery;
3. Burglary in the second degree;
4. Use of a firearm or offensive weapon to commit or attempt to commit a felony, or pointing a firearm;
5. Grand larceny;
6. Extortion, or obtaining a signature by extortion;
7. Fraud, or obtaining or attempting to obtain property by trick or deception;
8. Embezzlement; or

9. Caretaker abuse, neglect or exploitation.

Added by Laws 1999, 1st Ex.Sess., c. 5, § 445, eff. July 1, 1999. Amended by Laws 2008, c. 314, § 4, eff. July 1, 2008.

§22-991a-17. Enhancement of sentence.

Whenever a person is convicted of an offense enumerated in Section 445 of this act in which the victim is elderly or incapacitated, the court shall upon conviction:

1. Commit the defendant for confinement as provided by law; provided, the first thirty (30) days of the sentence shall not be subject to probation, suspension or deferral; provided further, this mandatory minimum period of confinement shall be served in the county jail as a condition of a suspended or deferred sentence, pursuant to Section 991a of Title 22 of the Oklahoma Statutes and may be served by night or weekend incarceration pursuant to Section 991a-2 of Title 22 of the Oklahoma Statutes; and

2. a. Require restitution be paid to the victim for out-of-pocket expenses, loss or damage to property and medical expenses for injury proximately caused by the conduct of the defendant pursuant to Section 447 of this act, or

b. Assign the offender to perform a required term of community service, according to a schedule consistent with the employment and family responsibility of the person convicted, or

c. Require restitution as provided in subparagraph a of this paragraph and community service as provided in subparagraph b of this paragraph; and

3. The court may further impose a fine or any other penalty otherwise provided by law.

Added by Laws 1999, 1st Ex.Sess., c. 5, § 446, eff. July 1, 1999.

§22-991a-18. Restitution to victim – Modification or revocation of sentence.

A. The court shall at the time of sentencing:

1. Determine whether the property may be restored in kind to the owner or the person entitled to possession thereof;

2. Determine whether defendant is possessed of sufficient skill to repair and restore property damaged;

3. Provide restitution to the victim according to a schedule of payments established by the sentencing court, together with interest upon any pecuniary sum at the rate of twelve percent (12%) per annum, if the defendant agrees to pay such restitution or, in the opinion of the court, the defendant is able to pay such restitution without imposing manifest hardship on the defendant or the immediate family of the defendant; and

4. Determine the extent of the out-of-pocket expenses, loss or damage to property and injury to the victim proximately caused by the conduct of the defendant.

B. The court shall allow credit for property returned in kind, for property damages ordered to be repaired by the defendant, and for property ordered to be restored by the defendant and after granting such credit, the court shall assess the actual out-of-pocket expenses, losses, damages and injuries suffered by the victim.

C. In no event shall a victim be entitled to recover restitution in excess of the actual out-of-pocket expenses, losses, damages and injuries, proximately caused by the conduct of the defendant and restitution shall not be ordered to be paid on account of pain or suffering, provided however, that nothing in this section shall abridge or preclude any victim from the civil right to recover damages by separate civil cause of action brought against the defendant.

D. If the defendant fails to pay restitution in the manner or within the time period specified by the court, the court may enter an order directing the sheriff to seize any real or personal property of the defendant to the extent necessary to satisfy the order of restitution and dispose of such property by public sale. All property seized for the purposes of satisfying restitution shall be seized under the procedures established in Section 448 of this act.

E. A sentence including provisions of restitution may be modified or revoked by the court if the offender commits another offense, or the offender fails to make restitution as ordered by the court, but no sentencing provision to make restitution shall be modified if the court finds that the offender has had the financial ability to make restitution, and the offender has willfully refused to do so. If the court shall find that the defendant has failed to make restitution and that the failure is not willful, the court may impose an additional period of time within which to make restitution. The length of said additional period shall not be more than two (2) years. The court shall retain all of the incidents of the original sentence, including the authority to revoke or further modify the sentence if the conditions of payment are violated during such additional period.

Added by Laws 1999, 1st Ex.Sess., c. 5, § 447, eff. July 1, 1999.

§22-991a-19. Seizure of property – Forfeiture for sale – Notice and hearing – Petition for return – Release of property.

A. Any peace officer of this state shall seize any property, except property exempt under Section 1 of Title 31 of the Oklahoma Statutes, to be held until a forfeiture for sale has been declared or release ordered.

B. Within ten (10) days from the time the property is seized, notice of seizure and intended forfeiture proceeding shall be filed

in the office of the clerk of the district court for the county in which the property is seized and shall be given all owners and parties in interest.

C. Notice shall be given by the party seeking forfeiture and sale according to the following methods:

1. Upon each owner or party in interest whose right, title or interest is of record at the Tax Commission, by mailing a copy of the notice by certified mail to the address shown upon the records of the Tax Commission;

2. Upon each owner or party in interest whose name and address is known to the attorney or the party seeking the action to recover unpaid restitution, by mailing a copy of the notice by registered mail to the last-known address; and

3. Upon all other owners or interested parties, whose addresses are unknown, but who are believed to have an interest in the property, by one publication in a newspaper of general circulation in the county where the seizure was made.

D. Within sixty (60) days after the mailing and publication of the notice, the owner of the property and any other party in interest or claimant may file a verified answer and claim to the property described in the notice.

E. If at the end of sixty (60) days after the notice has been mailed or published there is no verified answer on file, the court shall hear evidence upon the fact of exemption under Section 1 of Title 31 of the Oklahoma Statutes and shall order the property forfeited and sold to pay restitution, if such property is not proved exempt.

F. If a verified answer is filed, the forfeiture for sale proceeding shall be set for hearing not less than ten (10) days nor more than sixty (60) days after the filing of the answer.

G. At a hearing on the forfeiture, the evidence of ownership and exemption under Section 1 of Title 31 of the Oklahoma Statutes shall be satisfied by a preponderance of the evidence.

H. The claimant of any right, title or interest in the property may prove a lien, mortgage or conditional sales contract to be a bona fide ownership interest by a preponderance of the evidence.

I. In the event of such proof, the court shall order the property released to the bona fide owner, lienholder, mortgagee or vendor if the amount due such party is equal to, or in excess of, the value of the property as of the date of the seizure, it being the intention of this section to forfeit only the right, title or interest of the offender.

J. If the amount due to such person is less than the value of the property, or if no bona fide claim is established, the property shall be forfeited and sold under judgment of the court, as on sale upon execution.

K. Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the office of the district attorney of the county in which the property was seized, subject only to the orders and decrees of the court having jurisdiction thereof.

L. The proceeds of the sale of any property shall be distributed as follows, in the order indicated:

1. To the bona fide purchaser, conditional sales vendor or mortgagee of the property, if any, up to the amount of such party's interest in the property, when the court declaring the forfeiture orders a distribution to such person;

2. To the payment of the actual expenses of storing the property;

3. To the payment of court costs and costs of the sheriff in conducting the sale;

4. To the payment of restitution to the victim; and

5. The balance of the proceeds of such sale shall be paid to the defendant.

M. If the court finds that the party seeking the forfeiture failed to satisfy the requirements provided for in subsection G of this section, the court shall order the property released to the owner or owners.

N. Upon failure to give the notice of seizure and intended forfeiture as provided in subsections B and C of this section, any owner or party in interest may petition the court for return of the property. The court shall schedule a hearing within ten (10) days of the filing of the petition for return of the property. The petitioner shall be required to prove ownership interest or other claim to the property, and the court shall return the property if the claim is proved by a preponderance of the evidence and the property is not otherwise required as evidence in a criminal prosecution. Failure to give the notice of seizure and intended forfeiture shall not be construed to prohibit, deny, void or dismiss any criminal prosecution or serve as grounds for any motion to suppress evidence.

O. In addition to other provisions of this section, seized property shall be released upon the following conditions:

1. Dismissal of a forfeiture proceeding;

2. Failure to file criminal charges within ninety (90) days from the date of seizure, provided the property is held as evidence and not forfeited to the state or returned to an owner or party in interest as provided in subsection N of this section. Provided, however, the district attorney may request the court to grant an extension beyond the ninety-day limitation for filing charges if a criminal investigation may result in charges being filed after that time. If an extension to file criminal charges is granted, the seized property may be held until the court orders the property released; or

3. Dismissal or acquittal of criminal charges, provided the property is held as evidence and not forfeited to the state or returned to an owner or party in interest as provided in subsection N of this section.
Added by Laws 1999, 1st Ex.Sess., c. 5, § 448, eff. July 1, 1999.

§22-991a-20. Second and subsequent offenses.

A. Every person who, having been convicted of any offense against an elderly or incapacitated person, as enumerated in Section 445 of this act, commits any crime against an elderly or incapacitated person after such conviction is punishable as follows:

1. If the offense of which such person is subsequently convicted is such that upon a first conviction an offender would be punishable by imprisonment in the State Penitentiary for any term exceeding five (5) years, such person is punishable by imprisonment in the State Penitentiary for a term not less than ten (10) years; or

2. If such subsequent offense is such that upon a first conviction the offender would be punishable by imprisonment in the State Penitentiary for five (5) years or less, then the person convicted of such subsequent offense is punishable by imprisonment in the State Penitentiary for a term not exceeding fifteen (15) years.

B. Every person who, having been twice convicted of felony offenses against an elderly or incapacitated person, commits a third felony offense against an elderly or incapacitated person within ten (10) years of the date following the completion of the execution of the first sentence, shall be punishable by imprisonment in the State Penitentiary for a term of not less than twenty (20) years.

C. All felony offenses arising out of the same transaction or occurrence or series of events closely related in time and location shall be considered as one offense for the purposes of this section.

D. Nothing in this section shall affect the punishment by death or life imprisonment without parole in all crimes now or hereafter made punishable by death or life imprisonment without parole.
Added by Laws 1999, 1st Ex.Sess., c. 5, § 449, eff. July 1, 1999.

§22-991a-21. Post-imprisonment supervision.

A. For persons convicted and sentenced on or after November 1, 2012, the court shall include in the sentence of any person who is convicted of a felony and sentenced to a term of confinement with the Department of Corrections, as provided in Section 991a of Title 22 of the Oklahoma Statutes or any other provision of the Oklahoma Statutes, a term of post-imprisonment supervision. The post-imprisonment supervision shall be for a period of not less than nine (9) months nor more than one (1) year following confinement of the person and shall be served under conditions prescribed by the Department of Corrections. In no event shall the post-imprisonment

supervision be a reason to reduce the term of confinement for a person.

B. The court shall not include a term of post-imprisonment supervision for any person who has been sentenced to life without parole.

C. Should the offender fail to comply with the terms of post-imprisonment supervision, the offender may be sanctioned to serve a term of confinement of six (6) months in an intermediate revocation facility.

D. Nothing in this section shall prevent the state from revoking, in whole or in part, the post-imprisonment supervision, probation or parole of a person for committing any misdemeanor or felony while under such supervision, probation or parole.
Added by Laws 2012, c. 228, § 4, eff. Nov. 1, 2012.

§22-991b. Revocation of suspended sentence – Intermediate sanction process – Technical violations.

A. Whenever a sentence has been suspended by the court after conviction of a person for any crime, the suspended sentence of the person may not be revoked, in whole or part, for any cause unless a petition setting forth the grounds for such revocation is filed by the district attorney with the clerk of the sentencing court and competent evidence justifying the revocation of the suspended sentence is presented to the court at a hearing to be held for that purpose within twenty (20) days after the entry of the plea of not guilty to the petition, unless waived by both the state and the defendant. The State of Oklahoma may dismiss the petition without prejudice one time upon good cause shown to the court, provided that any successor petition must be filed within forty-five (45) days of the date of the dismissal of the petition.

B. Whenever a sentence has been suspended by the court after conviction of a person for any crime, the suspended sentence of the person may not be revoked in whole for a technical violation unless a petition setting forth the grounds for such revocation is filed by the district attorney with the clerk of the sentencing court and competent evidence justifying the revocation of the suspended sentence is presented to the court at a hearing to be held for that purpose within twenty (20) days after the entry of the plea of not guilty to the petition, unless waived by both the state and the defendant. The State of Oklahoma may dismiss the petition without prejudice one time upon good cause shown to the court; provided, that any successor petition must be filed within forty-five (45) days of the date of the dismissal of the petition. Any revocation of a suspended sentence based on a technical violation shall not exceed six (6) months for a first revocation and five (5) years for a second or subsequent revocation.

C. "Technical violation" as used in this section means a violation of the court-imposed rules and conditions of probation, other than:

1. Committing or being arrested for a new crime;

2. Attempting to falsify a drug screen, or three or more failed drug or alcohol screens within a three-month period;

3. Failing to pay restitution;

4. Tampering with an electronic monitoring device;

5. Failing to initially report or missing assigned reporting requirements for an excess of sixty (60) days;

6. Unlawfully contacting a victim, codefendant or criminal associates;

7. Five or more separate and distinct technical violations within a ninety-day period; or

8. Any violation of the Specialized Sex Offender Rules.

D. 1. The Department of Corrections shall develop a matrix of technical violations and sanctions to address violations committed by persons who are being supervised by the Department. The Department shall be authorized to use a violation response and intermediate sanction process based on the sanction matrix to apply to any technical violations of probationers. Within four (4) working days of the discovery of the violation, the probation officer shall initiate the violation response and intermediate sanction process. The sentencing judge may authorize any recommended sanctions, which may include, but are not limited to: short-term jail or lockup, day treatment, program attendance, community service, outpatient or inpatient treatment, monetary fines, curfews, ignition interlock devices on vehicles, or a one-time referral to a term of confinement of six (6) months in an intermediate revocation facility operated by the Department of Corrections; provided, upon approval of the district attorney, a person may be sanctioned to serve additional terms of confinement in an intermediate revocation facility. The probation officer shall complete a sanction form, which shall specify the technical violation, sanction, and the action plan to correct the noncompliant behavior resulting in the technical violation. The probation officer shall refer to the sanctioning matrix to determine the supervision, treatment, and sanctions appropriate to address the noncompliant behavior. The probation officer shall refer the violation information and recommended response with a sanction plan to the Department of Corrections to be heard by a hearing officer. The Department of Corrections shall develop a sanction matrix, forms, policies and procedures necessary to implement this provision. The Department of Corrections shall establish procedures to hear responses to technical violations and review sanction plans including the following:

a. hearing officers shall report through a chain of command separate from that of the supervising probation officers,
b. the Department shall provide the offender written notice of the violation, the evidence relied upon, and the reason the sanction was imposed,
c. the hearing shall be held unless the offender waives the right to the hearing,
d. hearings shall be electronically recorded, and
e. the Department shall provide to judges and district attorneys a record of all violations and actions taken pursuant to this subsection.

2. The hearing officer shall determine based on a preponderance of the evidence whether a technical violation occurred. Upon a finding that a technical violation occurred, the hearing officer may order the offender to participate in the recommended sanction plan or may modify the plan. Offenders who accept the sanction plan shall sign a violation response sanction form, and the hearing officer shall then impose the sanction. Failure of the offender to comply with the imposed sanction plan shall constitute a violation of the rules and conditions of supervision that may result in a revocation proceeding. If an offender does not voluntarily accept the recommended sanction plan, the Department shall either impose the sanction and allow the offender to appeal to the district court, or request a revocation proceeding as provided by law. Every administrative hearing and sanction imposed by the Department shall be appealable to the district court.

3. Absent a finding of willful nonpayment by the offender, the failure of an offender to pay fines and costs may not serve as a basis for revocation, excluding restitution.

E. 1. Where one of the grounds for revocation is the failure of the defendant to make restitution as ordered, the Department of Corrections shall forward to the district attorney all information pertaining to the failure of the defendant to make timely restitution as ordered by the court, and the district attorney shall file a petition setting forth the grounds for revocation.

2. The defendant ordered to make restitution can petition the court at any time for remission or a change in the terms of the order of restitution if the defendant undergoes a change of condition which materially affects the ability of the defendant to comply with the order of the court.

3. At the hearing, if one of the grounds for the petition for revocation is the failure of the defendant to make timely restitution as ordered by the court, the court will hear evidence and if it appears to the satisfaction of the court from such evidence that the terms of the order of restitution create a manifest hardship on the defendant or the immediate family of the defendant, the court may

cancel all or any part of the amount still due, or modify the terms or method of payment. Provided, if the court determines that a reduction in the restitution still due is warranted, the court shall equally apply the same percentage reduction to any court-ordered monetary obligation owed by the defendant including, but not limited to, fines, court costs and costs of incarceration.

F. The court may revoke a portion of the sentence and leave the remaining part not revoked, but suspended for the remainder of the term of the sentence, and under the provisions applying to it. The person whose suspended sentence is being considered for revocation at the hearing shall have the right to be represented by counsel, to present competent evidence in his or her own behalf and to be confronted by the witnesses against the defendant. Any order of the court revoking the suspended sentence, in whole or in part, shall be subject to review on appeal, as in other appeals of criminal cases. Provided, however, that if the crime for which the suspended sentence is given was a felony, the defendant may be allowed bail pending appeal. If the reason for revocation be that the defendant committed a felony, the defendant shall not be allowed bail pending appeal.

G. Notwithstanding the provisions of subsections A and B of this section, when the suspended sentence of a person is being considered for revocation for an offense where the penalty has subsequently been lowered to a misdemeanor, the sentence shall be modified to a term that does not exceed the current maximum sentence.

Added by Laws 1969, c. 57, § 1. Amended by Laws 1972, c. 132, § 1, emerg. eff. April 7, 1972; Laws 1976, c. 160, § 2, eff. Oct. 1, 1976; Laws 1978, c. 128, § 1, eff. Oct. 1, 1978; Laws 1994, c. 320, § 2, eff. Sept. 1, 1994; Laws 1997, c. 133, § 71, eff. July 1, 1999; Laws 1999, 1st Ex. Sess., c. 5, § 22, eff. July 1, 1999; Laws 2002, c. 460, § 19, eff. Nov. 1, 2002; Laws 2005, c. 374, § 1, eff. Nov. 1, 2005; Laws 2012, c. 228, § 5, eff. Nov. 1, 2012; Laws 2016, c. 33, § 1, eff. Nov. 1, 2016; Laws 2018, c. 128, § 11, eff. Nov. 1, 2018; Laws 2019, c. 459, § 3, eff. Nov. 1, 2019.

NOTE: Laws 1998, 1st Ex. Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 71 from July 1, 1998, to July 1, 1999.

§22-991c. See the following versions:

OS 22-991cv1 (SB 1068, Laws 2019, c. 453, § 2).

OS 22-991cv2 (HB 1269, Laws 2019, c. 459, § 4).

§22-991c-1. Repealed by Laws 1999, 1st Ex.Sess., c. 5, § 452, eff. July 1, 1999.

§22-991d. Supervision fee.

A. 1. When the court orders supervision by the Department of Corrections, or the district attorney requires the Department to supervise any person pursuant to a deferred prosecution agreement,

the person shall be required to pay a supervision fee of Forty Dollars ($40.00) per month during the supervision period, unless the fee would impose an unnecessary hardship on the person. In hardship cases, the Department shall expressly waive all or part of the fee. The court shall make payment of the fee a condition of the sentence which shall be imposed whether the supervision is incident to the suspending of execution of a sentence, incident to the suspending of imposition of a sentence, or incident to the deferral of proceedings after a verdict or plea of guilty. The Department shall determine methods for payment of supervision fee, and may charge a reasonable user fee for collection of supervision fees electronically. The Department is required to report to the sentencing court any failure of the person to pay supervision fees and to report immediately if the person violates any condition of the sentence.

2. When the court imposes a suspended or deferred sentence for any offense and does not order supervision by the Department of Corrections, the offender shall be required to pay to the district attorney a supervision fee of Forty Dollars ($40.00) per month as a fee to compensate the district attorney for the actual act of supervising the offender during the applicable period of supervision. In hardship cases, the district attorney shall expressly waive all or part of the fee. Any fees collected by the district attorney pursuant to this paragraph shall be deposited in the General Revenue Fund of the State Treasury.

3. If restitution is ordered by the court in conjunction with supervision, the supervision fee will be paid in addition to the restitution ordered. In addition to the restitution payment and supervision fee, a reasonable user fee may be charged by the Department of Corrections to cover the expenses of administration of the restitution, except no user fee shall be collected by the Department when restitution payment is collected and disbursed to the victim by the office of the district attorney as provided in Section 991f of this title or Section 991f-1.1 of this title.

B. The Pardon and Parole Board shall require a supervision fee to be paid by the parolee as a condition of parole which shall be paid to the Department of Corrections. The Department shall determine the amount of the fee as provided for other persons under supervision by the Department.

C. Upon acceptance of an offender by the Department of Corrections whose probation or parole supervision was transferred to Oklahoma through the Interstate Compact Agreement, or upon the assignment of an inmate to any community placement, a fee shall be required to be paid by the offender to the Department of Corrections as provided for other persons under supervision of the Department.

D. Except as provided in subsection A and this subsection, all fees collected pursuant to this section shall be deposited in the Department of Corrections Revolving Fund created pursuant to Section

557 of Title 57 of the Oklahoma Statutes. For the fiscal year ending June 30, 1996, fifty percent (50%) of all collections received from offenders placed on supervision after July 1, 1995, shall be transferred to the credit of the General Revenue Fund of the State Treasury until such time as total transfers equal Three Million Three Hundred Thousand Dollars ($3,300,000.00).
Added by Laws 1972, c. 121, § 1, emerg. eff. March 31, 1972. Amended by Laws 1976, c. 160, § 4, eff. Oct. 1, 1976; Laws 1978, c. 273, § 16, emerg. eff. May 10, 1978; Laws 1981, c. 58, § 1, operative July 1, 1981; Laws 1988, c. 310, § 7, operative July 1, 1988; Laws 1995, c. 286, § 7, eff. July 1, 1995; Laws 1996, c. 304, § 3, emerg. eff. June 10, 1996; Laws 2001, c. 437, § 19, eff. July 1, 2001; Laws 2003, c. 474, § 4, eff. Nov. 1, 2003; Laws 2005, c. 374, § 3, eff. Nov. 1, 2005; Laws 2006, c. 159, § 1, eff. July 1, 2006; Laws 2008, c. 345, § 1, eff. July 1, 2008; Laws 2009, c. 138, § 1, eff. July 1, 2009; Laws 2014, c. 414, § 1, eff. Nov. 1, 2014; Laws 2019, c. 453, § 3, eff. July 1, 2019.

§22-991e. Repealed by Laws 1995, c. 286, § 16, eff. July 1, 1995.

§22-991f. Definitions.

A. For the purposes of any provision of Title 22 of the Oklahoma Statutes relating to criminal sentencing and restitution orders and for the Restitution and Diversion Program:

1. "Restitution" means the sum to be paid by the defendant to the victim of the criminal act to compensate that victim for up to three times the amount of the economic loss suffered as a direct result of the criminal act of the defendant;

2. "Victim" means any person, partnership, corporation or legal entity that suffers an economic loss as a direct result of the criminal act of another person;

3. "Economic loss" means actual financial detriment suffered by the victim consisting of medical expenses actually incurred, damage to or loss of real and personal property and any other out-of-pocket expenses, including loss of earnings, reasonably incurred as the direct result of the criminal act of the defendant. No other elements of damage shall be included as an economic loss for purposes of this section.

B. In all criminal prosecutions and juvenile proceedings in this state, when the court enters an order directing the offender to pay restitution to any victim for economic loss or to pay to the state any fines, fees or assessments, the order, for purposes of validity and collection, shall not be limited to the maximum term of imprisonment for which the offender could have been sentenced, nor limited to any term of probation, parole, or extension thereof, nor expire until fully satisfied. The court order for restitution, fines, fees or assessments shall remain a continuing obligation of

the offender until fully satisfied, and the obligation shall not be considered a debt, nor shall the obligation be dischargeable in any bankruptcy proceeding. The court order shall continue in full force and effect with the supervision of the state until fully satisfied, and the state shall use all methods of collection authorized by law.

C. 1. Upon conviction for any crime wherein property has been stolen, converted or otherwise unlawfully obtained, or its value substantially decreased as a direct result of the crime, or wherein the crime victim suffered injury, loss of income, or out-of-pocket loss, the individuals criminally responsible shall be sentenced to make restitution. Restitution may be ordered in addition to the punishments prescribed by law.

2. The court shall order full restitution based upon the following considerations:

a. the nature and amount of restitution shall be sufficient to restore the crime victim to the equivalent economic status existing prior to the losses sustained as a direct result of the crime, and may allow the crime victim to receive payment in excess of the losses sustained; provided, the excess amount of restitution shall not be more than treble the actual economic loss incurred, and

b. the amount of restitution shall be established regardless of the financial resources of the offender.

3. The court:

a. may direct the return of property to be made as soon as practicable and make an award of restitution in the amount of the loss of value to the property itself as a direct result of the crime, including out-of-pocket expenses and loss of earnings incurred as a result of damage to or loss of use of the property, the cost to return the property to the victim or to restore the property to its pre-crime condition whichever may be appropriate under the circumstances,

b. may order restitution in a lump sum or by such schedules as may be established and thereafter adjusted by agreement consistent with the order of the court,

c. shall have the authority to amend or alter any order of restitution made pursuant to this section providing that the court shall state its reasons and conclusions as a matter of record for any change or amendment to any previous order,

d. may order interest upon any ordered restitution sum to accrue at the rate of twelve percent (12%) per annum until the restitution is paid in full. The court may further order such interest to be paid to the victims of the crime or proportion the interest payment between

the victims and the court fund, and/or the Restitution and Diversion Program, in the discretion of the court, and

e. shall consider any pre-existing orders imposed on the defendant, including, but not limited to, orders imposed under civil and criminal proceedings.

D. If restitution to more than one person, agency or entity is set at the same time, the court shall establish the following priorities of payment:

1. The crime victim or victims; and

2. Any other government agency which has provided reimbursement to the victim as a result of the offender's criminal conduct.

E. 1. The district attorney's office shall present the crime victim's restitution claim to the court at the time of the conviction of the offender or the restitution provisions shall be included in the written plea agreement presented to the court, in which case, the restitution claim shall be reviewed by the judge prior to acceptance of the plea agreement.

2. At the initiation of the prosecution of the defendant, the district attorney's office shall provide all identifiable crime victims with written and oral information explaining their rights and responsibilities to receive restitution established under this section.

3. The district attorney's office shall provide all crime victims, regardless of whether the crime victim makes a specific request, with an official request for restitution form to be completed and signed by the crime victim, and to include all invoices, bills, receipts, and other evidence of injury, loss of earnings and out-of-pocket loss. This form shall be filed with any victim impact statement to be included in the judgment and sentence. Every crime victim receiving the restitution claim form shall be provided assistance and direction to properly complete the form.

4. The official restitution request form shall be presented in all cases regardless of whether the case is brought to trial. In a plea bargain, the district attorney in every case where the victim has suffered economic loss, shall, as a part of the plea bargain, require that the offender pay restitution to the crime victim. The district attorney shall be authorized to act as a clearing house for collection and disbursement of restitution payments made pursuant to this section, and shall assess a fee of One Dollar ($1.00) per payment received from the defendant, except when the defendant is sentenced to incarceration in the Department of Corrections.

F. The crime victim shall provide all documentation and evidence of compensation or reimbursement from insurance companies or agencies of this state, any other state, or the federal government received as a direct result of the crime for injury, loss of earnings or out-of-pocket loss.

G. The court shall, upon motion by the crime victim, redact from the submitted documentation all personal information relating to the crime victim that does not directly and necessarily establish the authenticity of any document or substantiate the asserted amount of the restitution claim.

H. The unexcused failure or refusal of the crime victim to provide all or part of the requisite information prior to the sentencing, unless disclosure is deferred by the court, shall constitute a waiver of any grounds to appeal or seek future amendment or alteration of the restitution order predicated on the undisclosed available information. The court shall order the offender to submit either as part of the pre-sentence investigation or assessment and evaluation required for a community sentence or, if no pre-sentence investigation is conducted, in advance of the sentencing proceeding such information as the court may direct and finds necessary to be disclosed for the purpose of ascertaining the type and manner of restitution to be ordered.

I. The willful failure or refusal of the offender to provide all or part of the requisite information prior to the sentencing, unless disclosure is deferred by the court shall not deprive the court of the authority to set restitution or set the schedule of payment. The willful failure or refusal of the offender to provide all or part of the requisite information prior to the sentencing, unless disclosure is deferred by the court, shall constitute a waiver of any grounds to appeal or seek future amendment or alteration of the restitution order predicated on the undisclosed information. The willful failure or refusal of the offender to provide all or part of the requisite information prior to sentencing, unless disclosure is deferred by the court, shall constitute an act of contempt.

J. The court shall conduct such hearings or proceedings as it deems necessary to set restitution and payment schedules at the time of sentencing or may bifurcate the sentencing and defer the hearing or proceedings relating to the imposition of restitution as justice may require. Amendments or alterations to the restitution order may be made upon the court's own motion, petition by the crime victim or petition by the offender.

K. An offender who files a meritless or frivolous petition for amendment or alteration to the restitution order shall pay the costs of the proceeding on the petition and shall have added to the existing restitution order the additional loss of earnings and out-of-pocket loss incurred by the crime victim in responding to the petition.

L. The restitution request form shall be promulgated by the District Attorneys Council and provided to all district attorney offices.

M. If a defendant who is financially able refuses or neglects to pay restitution as ordered by this section, payment may be enforced:

1. By contempt of court as provided in subsection A of Section 566 of Title 21 of the Oklahoma Statutes with imprisonment or fine or both;

2. In the same manner as prescribed in subsection N of this section for a defendant who is without means to make such restitution payment; or

3. Revocation of the criminal sentence if the sentence imposed was a suspended or deferred sentence or a community sentence.

N. If the defendant is without means to pay the restitution, the judge may direct the total amount due, or any portion thereof, to be entered upon the court minutes and to be certified in the district court of the county where it shall then be entered upon the district court judgment docket and shall have the full force and effect of a district court judgment in a civil case. Thereupon the same remedies shall be available for the enforcement of the judgment as are available to enforce other judgments; provided, however, the judgment herein prescribed shall not be considered a debt nor dischargeable in any bankruptcy proceeding.

O. Whenever a person has been ordered to pay restitution as provided in this section or any section of the Oklahoma Statutes for a criminal penalty, the judge may order the defendant to a term of community service, with or without compensation, to be credited at a rate of Five Dollars ($5.00) per day against the total amount due for restitution. If the defendant fails to perform the required community service authorized by this subsection or if the conditions of community service are violated, the judge may impose a term of imprisonment not to exceed five (5) days in the county jail for each failure to comply.

P. Nothing in subsections M through O of this section shall be construed to be additions to the original criminal penalty, but shall be used by the court as sanctions and means of collection for criminal restitution orders and restitution orders that have been reduced to judgment.

Added by Laws 1976, c. 160, § 5, eff. Oct. 1, 1976. Amended by Laws 1997, c. 357, § 6, emerg. eff. June 9, 1997; Laws 1998, c. 410, § 1, eff. July 1, 1998; Laws 2001, c. 437, § 20, eff. July 1, 2001.

§22-991f-1.0. Restitution and Diversion Program - Short title.

This section and Section 22 of this act shall be known and may be cited as the "Restitution and Diversion Program".

Added by Laws 2001, c. 437, § 21, eff. July 1, 2001.

§22-991f-1.1. Restitution and Diversion Program - Evaluation of criminal complaints for deferred prosecution - Restitution agreement - Definitions.

A. Each district attorney shall create within the district attorney's office a Restitution and Diversion Program and assign

sufficient staff and resources for the efficient operation of such program. The purpose of the Restitution and Diversion Program is to allow the district attorney the discretion to divert criminal complaints involving property crimes from criminal court and to monitor restitution payments. At the discretion of the district attorney, the program may be administered by the Bogus Check Restitution Program operated by the county.

B. 1. Referral of a criminal complaint to the Restitution and Diversion Program shall be at the discretion of the district attorney. This act shall not limit the power of the district attorney to prosecute criminal complaints.

2. Upon receipt of a criminal complaint involving property, the district attorney shall determine if the complaint is one which is appropriate for deferred prosecution.

3. In determining whether to defer prosecution and refer a case to the Restitution and Diversion Program, the district attorney shall consider the following factors:

a. whether the criminal complaint alleges an offense involving property,
b. whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner,
c. the prospects for adequate protection of the public if the accused person is processed through deferred prosecution in the Restitution and Diversion Program,
d. the number of criminal complaints against the defendant previously received by the district attorney,
e. whether or not there are other criminal complaints currently pending against the defendant,
f. the strength of the evidence of the particular criminal complaint, and
g. the wishes of the victim.

C. Upon referral of a complaint to the Restitution and Diversion Program, a notice of the complaint shall be forwarded by mail to the accused person. The notice shall contain:

1. The date the act which is the subject of the complaint occurred;

2. The name of the victim;

3. The date before which the accused person must contact the office of the district attorney concerning the complaint; and

4. A statement of the penalty for the crime which is the subject of the complaint.

D. The district attorney may enter into a written agreement with the accused person to defer prosecution on the criminal complaint for a period to be determined by the district attorney, not to exceed three (3) years pending restitution being made to the victim of the complaint and payment of necessary fees.

E. Each restitution agreement shall include a provision requiring the accused person to pay to the district attorneys office a fee equal to the amount which would have been assessed as court costs upon the filing of the case in district court plus Twenty-five Dollars ($25.00) for each criminal complaint covered by the agreement. This fee may be deposited in a special fund with the county treasurer to be known as the "Restitution and Diversion Program Fund" or in the Bogus Check Restitution Fund. The monies deposited in the Restitution and Diversion Program Fund shall be used by the district attorney to make any lawful expenditure associated with the district attorney's office. The district attorney shall keep records of all monies deposited to and disbursed from these funds. The records of these funds shall be audited at the same time the records of county funds are audited.

F. 1. Restitution to be paid by the accused person to the victim shall include out-of-pocket expenses the victim incurred as a direct result of the crime having been committed. A restitution agreement may include provisions for restitution in an amount up to treble the amount of property involved except such restitution shall not apply to false or bogus checks. If, instead of paying restitution directly to the victim, the accused person delivers restitution funds to the office of the district attorney, the district attorney shall deposit such funds in a depository account in the office of the county treasurer to be disbursed to the victim by a warrant signed by the district attorney or a member of the district attorney's staff assigned to the Restitution and Diversion Program. The district attorney shall keep full records of all restitution monies received and disbursed. These records shall be audited at the same time the county funds are audited;

2. If the accused person fails to comply with the provisions of the Restitution and Diversion Program agreement, the district attorney may file an information and proceed with the prosecution of the accused person as provided by law.

G. Members of the district attorney's staff shall perform duties in connection with the Restitution and Diversion Program in addition to any other duties which may be assigned by the district attorney.

H. 1. District attorneys shall prepare and submit an annual report to the District Attorneys Council showing total deposits and total expenditures in the Restitution and Diversion Program.

2. By September 15 of each year, the District Attorneys Council shall publish an annual report for the previous fiscal year of the Restitution and Diversion Program. A copy of the report shall be distributed to the President Pro Tempore of the Senate and the Speaker of the House of Representatives and the chairs of the House and Senate Appropriations Committees. Each district attorney shall submit information requested by the District Attorneys Council regarding the Restitution and Diversion Program. This report shall

include the number of cases processed, the total dollar amount for which restitution was made, the total amount of the restitution collected, the total amount of fees collected, the total cost of the program, and such other information as required by the District Attorneys Council.

I. For the purposes of the Restitution and Diversion Program, the following definitions shall apply:

1. "Property Crime" shall include, but not be limited to the following:
   a. embezzlement offenses,
   b. larceny offenses,
   c. theft offenses,
   d. malicious injury to property, and
   e. any offense which results in economic loss, but does not result in physical injury to another human being, and which is not enumerated in Section 571 of Title 57 of the Oklahoma Statutes;
2. "Victim" is defined by Section 991f of this title;
3. "Restitution" is defined by Section 991f of this title; and
4. "Economic loss" is defined by Section 991f of this title.

J. The victim shall promptly provide to the Restitution and Diversion Program all documentation and evidence of compensation or reimbursement from insurance companies or agencies of this state, any other state, or the federal government received as a direct result of the crime for injury, loss of earnings or out-of-pocket loss.
Added by Laws 2001, c. 437, § 22, eff. July 1, 2001. Amended by Laws 2009, c. 93, § 2, eff. Nov. 1, 2009.

§22-991g. Local crimestoppers programs - Qualification for repayment of rewards - Audits - Certification - Use of funds.

A. The Office of the Attorney General, at the request of the court, shall determine whether a local crimestoppers program is qualified to receive repayments of rewards pursuant to Section 1 of this act. The Office of the Attorney General shall approve the local crimestoppers program to receive those repayments if, considering the organization, continuity, leadership, community support, audit pursuant to subsection B of this section and general conduct of the program, the Office of the Attorney General determines that the repayments will be spent to further the crime prevention purposes of the program.

B. Prior to certification by the Office of the Attorney General for a local crimestoppers program to receive repayments pursuant to Section 1 of this act, each program is subject to an audit by an independent accounting firm which must be submitted to the Office of the Attorney General for review. In order to maintain certification, the program shall be so audited each year and the audit submitted prior to July 1 of each year.

C. The Office of the Attorney General may certify a local crimestoppers program for purposes of Section 1 of this act even if a judge has not requested a determination for that program and may maintain a current list of approved local crimestoppers programs.

D. A local crimestoppers program certified by the Office of the Attorney General to receive repayments pursuant to Section 1 of this act shall use that money for the sole purpose of rewards to persons who report information on criminal activity only if that information leads to a defendant being indicted for or charged by information with a felony offense.

Added by Laws 1991, c. 17, § 2, eff. Sept. 1, 1991.

§22-991h. Order of no contact.

In addition to the other sentencing powers of the court, when sentencing a person who has been convicted, whether upon a verdict or plea of guilty or nolo contendere, or who has received a suspended sentence or any probationary term for a crime or an attempt to commit a crime provided for in:

1. Section 843.5 of Title 21 of the Oklahoma Statutes, if the offense involved sexual abuse or sexual exploitation, as those terms are defined in Section 1-1-105 of Title 10A of the Oklahoma Statutes;

2. Section 681 of Title 21 of the Oklahoma Statutes, if the offense involved sexual assault;

3. Section 741 of Title 21 of the Oklahoma Statutes, if the offense involved sexual abuse or sexual exploitation;

4. Section 748 of Title 21 of the Oklahoma Statutes, if the offense involved human trafficking for commercial sex;

5. Section 843.1 of Title 21 of the Oklahoma Statutes, if the offense involved sexual abuse or sexual exploitation;

6. Section 852.1 of Title 21 of the Oklahoma Statutes, if the offense involved sexual abuse of a child;

7. Section 866, 885, 886, 888 or 891 of Title 21 of the Oklahoma Statutes, if the offense involved sexual abuse or sexual exploitation;

8. Section 1021, 1021.2, 1021.3, 1024.2 or 1029 of Title 21 of the Oklahoma Statutes, if the offense involved child prostitution;

9. Section 1040.8 of Title 21 of the Oklahoma Statutes, if the offense involved child pornography; or

10. Section 1040.12a, 1040.13, 1040.13a, 1087, 1088, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes,

the court shall issue an order that the defendant shall have no contact directly or indirectly with the victim or the family of the victim during the full term of the confinement of the defendant, term of probation, period of deferment or term of confinement and probation of the defendant.

Added by Laws 2019, c. 364, § 1, eff. Nov. 1, 2019.

§22-994. Suspension of judgment and sentence after appeal.

After appeal, when any criminal conviction is affirmed, either in whole or in part, the court in which the defendant was originally convicted may suspend the judgment and sentence as otherwise provided by law. Jurisdiction for such suspension shall be vested in said trial court by a request by the defendant within ten days of the final order of the Court of Criminal Appeals. Any order granting or denying suspension made under the provisions of this section is a nonappealable order.

Laws 1965, c. 160, § 1, emerg. eff. May 26, 1965.

§22-996. Short title - Regimented Inmate Discipline (RID) Program.

Sections 996 through 996.3 of this title shall be known and may be cited as the "Delayed Sentencing Program for Young Adults". This act is also recognized as the Regimented Inmate Discipline (RID) Program.

Added by Laws 1987, c. 119, § 1, eff. Nov. 1, 1987. Amended by Laws 2003, c. 323, § 1, eff. July 1, 2003.

§22-996.1. Definitions.

As used in the Delayed Sentencing Program for Young Adults:

"Offender" means any adult eighteen (18) through twenty-one (21) years of age as of the date of a verdict of guilty or a plea of guilty or nolo contendere for a nonviolent felony offense or a juvenile who has been certified to stand trial as an adult for a nonviolent felony offense, who has no charges pending for a violent offense and who has not been convicted, or adjudicated as a juvenile delinquent or youthful offender, of:

1. Assault, battery, or assault and battery with a dangerous or deadly weapon as defined by Sections 645 and subsection C of 652 of Title 21 of the Oklahoma Statutes, or Section 2-219 of Title 43A of the Oklahoma Statutes;

2. Aggravated assault and battery on a police officer, sheriff, highway patrolman, or any other officer of the law as defined by Sections 650, subsection C of 650.2, 650.5, subsection B of 650.6, or subsection C of 650.7 of Title 21 of the Oklahoma Statutes;

3. Poisoning with intent to kill as defined by Section 651 of Title 21 of the Oklahoma Statutes;

4. Shooting with intent to kill as defined by Section 652 of Title 21 of the Oklahoma Statutes;

5. Assault with intent to kill as defined by Section 653 of Title 21 of the Oklahoma Statutes;

6. Using a vehicle to facilitate the intentional discharge of any kind of firearm in violation of Section 652 of Title 21 of the Oklahoma Statutes;

7. Discharging any firearm or other deadly weapon at or into any dwelling as defined in Section 1289.17A of Title 21 of the Oklahoma Statutes;

8. Assault with intent to commit a felony as defined by Section 681 of Title 21 of the Oklahoma Statutes;

9. Assaults while masked or disguised as defined by Section 1303 of Title 21 of the Oklahoma Statutes;

10. Murder in the first degree as defined by Section 701.7 of Title 21 of the Oklahoma Statutes;

11. Murder in the second degree as defined by Section 701.8 of Title 21 of the Oklahoma Statutes;

12. Manslaughter in the first degree as defined by Sections 711, 712, 713 or 714 of Title 21 of the Oklahoma Statutes;

13. Manslaughter in the second degree as defined by Sections 716 or 717 of Title 21 of the Oklahoma Statutes;

14. Kidnapping as defined by Section 741 of Title 21 of the Oklahoma Statutes;

15. Burglary in the first degree as defined by Section 1431 of Title 21 of the Oklahoma Statutes;

16. Kidnapping for extortion as defined by Section 745 of Title 21 of the Oklahoma Statutes;

17. Maiming as defined by Section 751 of Title 21 of the Oklahoma Statutes;

18. Robbery as defined by Section 791 of Title 21 of the Oklahoma Statutes;

19. Robbery in the first degree as defined by Section 797 of Title 21 of the Oklahoma Statutes;

20. Robbery in the second degree as defined by Section 797 of Title 21 of the Oklahoma Statutes;

21. Armed robbery as defined by Section 801 of Title 21 of the Oklahoma Statutes;

22. Robbery by two (2) or more persons as defined by Section 800 of Title 21 of the Oklahoma Statutes;

23. Robbery with dangerous weapon or imitation firearm as defined by Section 801 of Title 21 of the Oklahoma Statutes;

24. Any crime against a child provided for in Section 843.5 of Title 21 of the Oklahoma Statutes;

25. Wiring equipment, vehicle or structure with explosives as defined by Section 849 of Title 21 of the Oklahoma Statutes;

26. Forcible sodomy as defined by Section 888 of Title 21 of the Oklahoma Statutes;

27. Rape in the first degree as defined by Sections 1111 and 1114 of Title 21 of the Oklahoma Statutes;

28. Rape by instrumentation as defined by Section 1111.1 of Title 21 of the Oklahoma Statutes;

29. Lewd or indecent proposition or lewd or indecent act with a child as defined by Section 1123 of Title 21 of the Oklahoma Statutes;

30. Use of a firearm or offensive weapon to commit or attempt to commit a felony as defined by Section 1287 of Title 21 of the Oklahoma Statutes;

31. Pointing firearms as defined by Section 1289.16 of Title 21 of the Oklahoma Statutes;

32. Rioting as defined by Sections 1311 or 1321.8 of Title 21 of the Oklahoma Statutes;

33. Inciting to riot as defined by Section 1320.2 of Title 21 of the Oklahoma Statutes;

34. Arson in the first degree as defined by Section 1401 of Title 21 of the Oklahoma Statutes;

35. Endangering human life during arson as defined by Section 1405 of Title 21 of the Oklahoma Statutes;

36. Procure, produce, distribute, or possess juvenile pornography as defined by Section 1021.2 of Title 21 of the Oklahoma Statutes;

37. Parental consent to juvenile pornography as defined by Section 1021.3 of Title 21 of the Oklahoma Statutes;

38. Distributing obscene material or child pornography as defined by Section 1040.13 of Title 21 of the Oklahoma Statutes;

39. Unlawful manufacturing, attempting to unlawfully manufacture or aggravated manufacturing of any controlled dangerous substance as defined by subsection G of Section 2-401 and paragraph 3 of subsection G of Section 2-401 of Title 63 of the Oklahoma Statutes;

40. Any violation of the Trafficking in Illegal Drugs Act as defined by Section 2-415 of Title 63 of the Oklahoma Statutes.

Added by Laws 1987, c. 119, § 2, eff. Nov. 1, 1987. Amended by Laws 1994, c. 314, § 1, eff. Sept. 1, 1994; Laws 2003, c. 323, § 2, eff. July 1, 2003; Laws 2005, c. 426, § 1, eff. July 1, 2005; Laws 2009, c. 275, § 2, eff. Nov. 1, 2009; Laws 2010, c. 226, § 6, eff. Nov. 1, 2010; Laws 2013, c. 338, § 1, eff. Nov. 1, 2013; Laws 2014, c. 98, § 1, eff. Nov. 1, 2014; Laws 2018, c. 157, § 1, emerg. eff. May 1, 2018.

§22-996.2. Implementation and scope of program.

The Department of Corrections shall establish and carry out the provisions of the Delayed Sentencing Program for Young Adults. The Program shall be not less than one hundred eighty (180) days nor more than one (1) year and shall provide a structured environment of intense confinement, supervision, treatment, discipline, and vocational or educational components designed specifically for the offender.

Added by Laws 1987, c. 119, § 3, eff. Nov. 1, 1987. Amended by Laws 2003, c. 323, § 3, eff. July 1, 2003.

§22-996.3. Powers of court - Specialized offender accountability plan - Objection and hearing - Effect of court order - Probation or confinement.

A. Upon a verdict of guilty or a plea of guilty or nolo contendere of an offender, the court shall delay sentencing for a period not less than one hundred eighty (180) days nor more than one (1) year after the plea of guilty or finding of guilt is entered and order the offender to the Delayed Sentencing Program for Young Adults under the custody of the Department of Corrections. For purposes of the Delayed Sentencing Program for Young Adults, the term "custody" shall include probation or confinement during the term of the Program. The court may initially commit the offender for either probation or confinement pending the completion of the Delayed Sentencing Program.

After the completion of the Program the court shall:

1. Defer judgment pursuant to the provisions of Section 991c of this title;

2. Sentence the offender to any sentence provided by law in the custody of the Department of Corrections;

3. Suspend the execution of sentence pursuant to Section 991a of this title. In addition to other conditions of probation allowed by statute, the court may include special conditions of probation as set forth in the plan provided to the court if sentencing is deferred or if all or part of the sentence is suspended;

4. Sentence the offender to community sentencing; or

5. Dismiss the criminal charges and proceedings.

B. Within ninety (90) days after the offender is committed to the Delayed Sentencing Program for Young Adults, the Department of Corrections shall prepare and file with the court clerk a specialized offender accountability plan for the offender which shall comply with and be in lieu of the presentence investigation provided for in Section 982 of this title. The plan shall include information, evaluations, and data directed by the sentencing court, and may include, but not be limited to, the investigation report of probation officers, an assessment of security risks and offender needs and a recommended specific course of action, including, where applicable, psychological counseling, psychiatric treatment, medical treatment, education or vocational training, work, restitution, and such other programs, which will offer the best opportunity for rehabilitation of the offender. If the plan recommends confinement, the plan shall state specifically the type of confinement that the Department of Corrections proposes to utilize and the amount of time the offender will spend in that confinement, including but not limited to boot camp, substance abuse treatment, and vocational or educational placement.

Upon filing the plan, copies shall be provided by the Department of Corrections to the district attorney, the offender, the offender's attorney, and the court. If the district attorney, the offender or the offender's attorney objects to the plan, the objecting party may file a written objection with the court within ten (10) days of the receipt of the plan. Upon the filing of any objection, the court shall conduct a hearing within ten (10) days of the filing of the objection and decide a plan of action for the offender under the Delayed Sentencing Program for Young Adults or sentence the offender as otherwise provided by law.

C. An order by the court placing an offender in the Delayed Sentencing Program for Young Adults shall be accepted by the Department of Corrections as a commitment to the custody of the Department pursuant to the provisions of Section 521 of Title 57 of the Oklahoma Statutes, for the sole purpose of committing an offender for assessment and evaluation and complying with the accountability plan.

D. If no objection has been made to the plan, the offender shall remain in the custody of the Department either under probation or confinement to comply with the terms and conditions of the plan. The offender may be housed either in a minimum or medium security facility, halfway house, community corrections facility, or any combination as needed to comply with the plan and meet offender criminogenic needs. Upon completion of the program, the Department shall notify the Sheriff of the county from where the order by the court placing an offender in the Delayed Sentencing Program for Young Adults was filed and the Sheriff shall take custody of the offender.

E. Any offender previously admitted to the Delayed Sentencing Program for Young Adults shall be ineligible for the Delayed Sentencing Program for Young Adults for subsequent offenses.
Added by Laws 1987, c. 119, § 4, eff. Nov. 1, 1987. Amended by Laws 2003, c. 323, § 4, eff. July 1, 2003; Laws 2005, c. 426, § 2, eff. July 1, 2005; Laws 2010, c. 226, § 7, eff. Nov. 1, 2010; Laws 2018, c. 157, § 2, emerg. eff. May 1, 2018.

§22-1001. Judgment of death - Warrant.

When judgment of death is rendered, the judge must sign and deliver to the sheriff of the county a warrant duly attested by the clerk, under the seal of the court, stating the conviction and judgment and appointing a day on which the judgment is to be executed, which must be not less than sixty (60) nor more than ninety (90) days from the time of the judgment and must direct the sheriff to deliver the defendant within ten (10) days from the time of judgment to the warden of the state prison at McAlester, in this state, for execution.
R.L.1910, § 5967; Laws 1913, c. 113, p. 206, § 2.

§22-1001.1. Execution of judgment - Time - Stay of execution.

A. The execution of the judgment in cases where sentence of death is imposed shall be ordered by the Court of Criminal Appeals to be carried out thirty (30) days after the defendant fails to meet any of the following time conditions:

1. If a defendant does not file a petition for writ of certiorari in the United States Supreme Court within ninety (90) days from the issuance of the mandate in the original state direct appeal unless a first application for post-conviction relief is pending;

2. If a defendant does not file an original application for post-conviction relief in the Court of Criminal Appeals within ninety (90) days from the filing of the appellee's brief on direct appeal or, if a reply brief is filed, ninety (90) days from the filing of that reply brief, or a petition in error to the Court of Criminal Appeals after remand within thirty (30) days from entry of judgment by the district court disposing of the application for post-conviction relief;

3. If a defendant does not file a writ of certiorari to the United States Supreme Court within ninety (90) days from a denial of state post-conviction relief by the Oklahoma Court of Criminal Appeals;

4. If a defendant does not file the first petition for a federal writ of habeas corpus within sixty (60) days from a denial of the certiorari petition or from a decision by the United States Supreme Court from post-conviction relief;

5. If a defendant does not file an appeal in the United States Court of Appeals for the Tenth Circuit from a denial of a federal writ of habeas corpus within seventy (70) days; or

6. If a defendant does not file a petition for writ of certiorari with the United States Supreme Court from a denial of the appeal of the federal writ of habeas corpus within ninety (90) days.

B. The filing of a petition for rehearing in any federal court shall not serve to stay the execution dates or the time restraints set forth in the above section unless the defendant makes the showing set forth in subsection C of this section. The provisions of subsection A do not apply to second or subsequent petitions or appeals filed in any court. The filing of a second or subsequent petition or appeal in any court does not prevent the setting of an execution date.

C. When an action challenging the conviction or sentence of death is pending before it, the Court of Criminal Appeals may stay an execution date, or issue any order which effectively stays an execution date only upon a showing by the defendant that there exists a significant possibility of reversal of the defendant's conviction, or vacation of the defendant's sentence, and that irreparable harm will result if no stay is issued.

D. Should a stay of execution be issued by any state or federal court, a new execution date shall be set by operation of law sixty (60) days after the dissolution of the stay of execution. The new execution date shall be set by the Court of Criminal Appeals without necessity of application by the state, but the Attorney General, on behalf of the state, shall bring to the attention of the Court of Criminal Appeals the fact of the dissolution of a stay of execution and suggest the appropriateness of the setting of a new execution date.

E. After an execution date has been set pursuant to the provisions of this section, should a stay of execution be issued by any state or federal court, a new execution date shall be set by operation of law thirty (30) days after the dissolution of the stay of execution. The new execution date shall be set by the Court of Criminal Appeals without necessity of application by the state, but the Attorney General, on behalf of the state, shall bring to the attention of the Court of Criminal Appeals the fact of the dissolution of a stay of execution and suggest the appropriateness of setting a new execution date.

F. After an execution date has been set pursuant to the provisions of this section, should a stay of execution be issued by any state or federal court and then vacated by such court, the sentence of death shall be carried out as ordered prior to the issuance of such vacated stay of execution. If the prior execution date has expired prior to the vacation of the stay of execution, a new execution date shall be set by operation of law thirty (30) days after the vacation of the stay of execution. The new execution date shall be set by the Court of Criminal Appeals without necessity of application by the state, but the Attorney General, on behalf of the state, shall bring to the attention of the Court of Criminal Appeals the fact of a vacation of the stay of execution and suggest the appropriateness of the setting of a new execution date.

G. After an execution date has been set pursuant to the provisions of this section, should the Governor of the State of Oklahoma issue a stay of execution pursuant to the powers articulated in Section 10 of Article VI of the Oklahoma Constitution, the Governor shall, simultaneous to the granting of the stay, set a new execution date. The sentence of death shall be carried out not more than thirty (30) days after the dissolution of the stay of execution; however, nothing shall prevent the Governor from ordering the new execution date to be on the first day immediately following dissolution of the stay.

Added by Laws 1987, c. 49, § 1. Amended by Laws 1992, c. 106, § 1, eff. Sept. 1, 1992; Laws 1995, c. 256, § 1, eff. Nov. 1, 1995; Laws 2002, c. 126, § 1, emerg. eff. April 22, 2002; Laws 2004, c. 164, § 1, eff. Nov. 1, 2004.

§22-1002. Governor to be informed of proceedings.

The judge of a court at which a conviction requiring a judgment of death is had, must, immediately after the conviction, transmit to the Governor, by mail or otherwise, a statement of the conviction and judgment, and of the testimony given at the trial.
R.L.1910, § 5968.

§22-1003. Governor may require opinion of appellate judges.

The governor may thereupon require the opinion of the judges of the criminal court of appeals, or any of them, upon the statement so furnished.
R.L.1910, § 5969.

§22-1004. Reprieve and suspension of execution - Authority of officers.

No judge, court or officer, other than the Governor, can reprieve or suspend the execution of the judgment of death, except the warden of the said state prison, to whom he is delivered for execution in the cases provided in the next seven sections, unless an appeal is taken.
R.L.1910, § 5970; Laws 1913, c. 113, p. 207, § 3.

§22-1005. Prisoner becoming insane - Question for jury trial.

If, after his delivery to the warden for execution, there is good reason to believe that a defendant under judgment of death has become insane, the warden must call such fact to the attention of the district attorney of the county in which the prison is situated, whose duty is to immediately file in the district or superior court of such county a petition stating the conviction and judgment and the fact that the defendant is believed to be insane and asking that the question of his sanity be inquired into. Thereupon, the court must at once cause to be summoned and impaneled from the regular jury list a jury of twelve persons to hear such inquiry.
R.L.1910, § 5971; Laws 1913, c. 113, P. 207, § 4.

§22-1006. Attendance by district attorney - Witnesses for inquisition.

The district attorney must attend the inquisition, and may produce witnesses before the jury, for which purpose he may issue process in the same manner as for witnesses to attend before the grand jury, and disobedience thereto may be punished in like manner as disobedience to process issued by the court.
R.L.1910, § 5972.

§22-1007. Verdict - Order of court – Competency restoration services.

The verdict of the jury must be entered upon the minutes and thereupon the court must make and cause to be entered an order reciting the fact of such inquiry and the result thereof, and when it is found that the defendant is insane because of a mental illness which causes the person to be presently unable (1) to have a rational understanding as to why he or she is being executed and (2) to have a rational understanding that he or she is to be executed and that execution is imminent, the court shall order the Department of Mental Health and Substance Abuse Services to provide, where the defendant is currently incarcerated, treatment, therapy or training which is calculated to allow the defendant to be restored to his or her sanity such that the defendant is able (1) to have a rational understanding as to why he or she is being executed and (2) to have a rational understanding that he or she is to be executed and that execution is imminent. The Department of Mental Health and Substance Abuse Services may designate a willing entity to provide such restoration services on behalf of the Department, provided the entity has qualified personnel.
R.L. 1910, § 5973. Amended by Laws 1913, c. 113, p. 207, § 5; Laws 2018, c. 290, § 1, emerg. eff. May 10, 2018.

§22-1008. Execution of judgment - Proceedings when defendant found insane - Recovery of reason.

If it is found that the defendant is sane the warden must proceed to execute the judgment as certified in the warrant; if it is found that the defendant is insane, the warden must suspend the execution and transmit a certified copy of the order mentioned in the last section to the Governor and deliver the defendant, together with a certified copy of such order to the medical superintendent of the hospital named in such order. When the defendant recovers his reason the superintendent of such hospital must certify that fact to the Governor, who must thereupon issue to the warden his warrant, appointing a day for the execution of the judgment.
R.L.1910, § 5974; Laws 1913, c. 113, p. 208, § 6.

§22-1010. Pregnancy of prisoners - Judicial investigation.

If it is a alleged that a female prisoner under judgment of death is pregnant, the warden must notify the district attorney of the county in which the prison is situated whose duty is to immediately file with the district court a petition stating such allegation. A hearing must be conducted by a judge of that district court to determine the validity of the allegation. Enforcement of the judgment is suspended upon the filing of the petition, pending the outcome of the hearing.

Upon filing of the petition a judge of the district court shall appoint a physician licensed under the laws of the State of Oklahoma to conduct a medical examination for pregnancy of the female

prisoner. Such examination shall be conducted within thirty (30) days prior to the hearing. The report of the examining physician shall be submitted to the court as evidence. The court may also hear any other evidence that may be presented. The court shall make a written finding to be filed with the court clerk as a part of the permanent record.
R.L.1910, § 5976; Laws 1913, c. 113, p. 208, § 7; Laws 1973, c. 101, § 1, emerg. eff. May 2, 1973.

§22-1011. Execution of judgment - Suspension when defendant pregnant - Execution when pregnancy ceases.

If it is found that a female is not pregnant the warden must execute the judgment. If it is found that she is pregnant, the warden must suspend the execution of the judgment and transmit a certified copy of the findings and certificate to the Governor. When the Governor receives from the warden a certificate that the defendant is no longer pregnant, he must issue to the warden his warrant appointing a day for the execution of the judgment.
R.L.1910, § 5977; Laws 1913, c. 113, p. 209, § 8.

§22-1012. Repealed by Laws 1992, c. 106, § 3, eff. Sept. 1, 1992.

§22-1013. Repealed by Laws 1992, c. 106, § 3, eff. Sept. 1, 1992.

§22-1014. Manner of inflicting punishment of death.

A. The punishment of death shall be carried out by the administration of a lethal quantity of a drug or drugs until death is pronounced by a licensed physician according to accepted standards of medical practice. For purposes of this subsection, the Uniform Controlled Dangerous Substances Act shall not apply to the Department of Corrections or to any person who participates in the execution or administers one or more controlled dangerous substances.

B. If the execution of the sentence of death as provided in subsection A of this section is held unconstitutional by an appellate court of competent jurisdiction or is otherwise unavailable, then the sentence of death shall be carried out by nitrogen hypoxia.

C. If the execution of the sentence of death as provided in subsections A and B of this section is held unconstitutional by an appellate court of competent jurisdiction or is otherwise unavailable, then the sentence of death shall be carried out by electrocution.

D. If the execution of the sentence of death as provided in subsections A, B and C of this section is held unconstitutional by an appellate court of competent jurisdiction or is otherwise unavailable, then the sentence of death shall be carried out by firing squad.

R.L. 1910, § 5981. Amended by Laws 1913, c. 113, p. 206, § 1; Laws 1951, p. 63, § 1, emerg. eff. May 26, 1951; Laws 1977, c. 41, § 1; Laws 2011, c. 70, § 1, eff. Nov. 1, 2011; Laws 2015, c. 75, § 1, eff. Nov. 1, 2015; Laws 2017, c. 348, § 1, eff. Nov. 1, 2017.

§22-1015. Place of execution of judgment - Persons who may witness.

A. A judgment of death must be executed at the Oklahoma State Penitentiary at McAlester, Oklahoma, said prison to be designated by the court by which judgment is to be rendered.

B. The judgment of execution shall take place under the authority of the Director of the Department of Corrections and the warden must be present along with other necessary prison and corrections officials to carry out the execution. The warden must invite the presence of a physician and the district attorney of the county in which the crime occurred or a designee, the judge who presided at the trial issuing the sentence of death, the chief of police of the municipality in which the crime occurred, if applicable, and lead law enforcement officials of any state, county or local law enforcement agency who investigated the crime or testified in any court or clemency proceeding related to the crime, including but not limited to the sheriff of the county wherein the conviction was had, to witness the execution; in addition, the Cabinet Secretary of Safety and Security must be invited as well as any other personnel or correctional personnel deemed appropriate and approved by the Director. The warden shall, at the request of the defendant, permit the presence of such ministers chosen by the defendant, not exceeding two, and any persons, relatives or friends, not to exceed five, as the defendant may name; provided, reporters from recognized members of the news media will be admitted upon proper identification, application and approval of the warden. The identity of all persons who participate in or administer the execution process and persons who supply the drugs, medical supplies or medical equipment for the execution shall be confidential and shall not be subject to discovery in any civil or criminal proceedings. The purchase of drugs, medical supplies or medical equipment necessary to carry out the execution shall not be subject to the provisions of The Oklahoma Central Purchasing Act.

C. In the event the defendant has been sentenced to death in one or more criminal proceedings in this state, or has been sentenced to death in this state and by one or more courts of competent jurisdiction in another state or pursuant to federal authority, or any combination thereof, and this state has priority to execute the defendant, the warden must invite the prosecuting attorney or his or her designee, the judge, and the chief law enforcement official from each jurisdiction where any death sentence has issued. The above mentioned officials shall be allowed to witness the execution or view

the execution by closed circuit television as determined by the Director of the Department of Corrections.

D. A place shall be provided at the Oklahoma State Penitentiary at McAlester so that individuals who are eighteen (18) years of age or older and who are members of the immediate family of any deceased victim of the defendant may witness the execution. The immediate family members shall be allowed to witness the execution from an area that is separate from the area to which other nonfamily member witnesses are admitted; provided, however, if there are multiple deceased victims, the Department shall not be required to provide separate areas for each family of each deceased victim. If facilities are not capable or sufficient to provide all immediate family members with a direct view of the execution, the Department of Corrections may broadcast the execution by means of a closed circuit television system to an area in which other immediate family members may be located.

Immediate family members may request individuals not directly related to the deceased victim but who serve a close supporting role or professional role to the deceased victim or an immediate family member, including, but not limited to, a minister or licensed counselor. The warden in consultation with the Director shall approve or disapprove such requests. Provided further, the Department may set a limit on the number of witnesses or viewers within occupancy limits.

As used in this section, "members of the immediate family" means the spouse, a child by birth or adoption, a stepchild, a parent, a grandparent, a grandchild, a sibling of a deceased victim, or the spouse of any immediate family member specified in this subsection.

E. Any surviving victim of the defendant who is eighteen (18) years of age or older may view the execution by closed circuit television with the approval of both the Director of the Department of Corrections and the warden. The Director and warden shall prioritize persons to view the execution, including immediate family members, surviving victims, and supporting persons, and may set a limit on the number of viewers within occupancy limits. Any surviving victim approved to view the execution of the defendant may have an accompanying support person as provided for members of the immediate family of a deceased victim. As used in this subsection, "surviving victim" means any person who suffered serious harm or injury due to the criminal acts of the defendant of which the defendant has been convicted in a court of competent jurisdiction. R.L. 1910, § 5982. Amended by Laws 1913, c. 113, p. 209, § 9; Laws 1951, p. 64, § 1, emerg. eff. May 1, 1951; Laws 1992, c. 106, § 2, eff. Sept. 1, 1992; Laws 1996, c. 28, § 1, emerg. eff. April 8, 1996; Laws 1997, c. 173, § 1, emerg. eff. May 7, 1997; Laws 1997, c. 357, § 8, emerg. eff. June 9, 1997; Laws 2004, c. 118, § 1, eff. Nov. 1,

2004; Laws 2007, c. 358, § 7, eff. July 1, 2007; Laws 2009, c. 275, § 3, eff. Nov. 1, 2009; Laws 2011, c. 70, § 2, eff. Nov. 1, 2011.

§22-1016. Warden's return upon death warrant.

After the execution, the warden must make a report upon the death warrant to the court by which the judgment was rendered, showing the time, mode and manner in which it was executed.
R.L.1910, § 5984. Amended by Laws 1913, c. 113, p. 210, § 10.

§22-1051. Right of appeal - Review - Corrective jurisdiction - Procedure - Scope of review on certiorari.

(a) An appeal to the Court of Criminal Appeals may be taken by the defendant, as a matter of right from any judgment against him, which shall be taken as herein provided; and, upon the appeal, any decision of the court or intermediate order made in the progress of the case may be reviewed; provided further, all appeals taken from any conviction on a plea of guilty shall be taken by petition for writ of certiorari to the Court of Criminal Appeals, as provided in paragraph (b) of this section, provided, such petition must be filed within ninety (90) days from the date of said conviction. The Court of Criminal Appeals may take jurisdiction of any case for the purpose of correcting the appeal records when the same do not disclose judgment and sentence; such jurisdiction shall be for the sole purpose of correcting such defect or defects.

(b) The procedure for the filing of an appeal in the Court of Criminal Appeals shall be as provided in the Rules of the Court of Criminal Appeals; and the Court of Criminal Appeals shall provide by court rules, which will have the force of statute, and be in furtherance of this method of appeal: (1) The procedure to be followed by the trial courts in the preparation and authentication of transcripts and records in cases appealed under this act; (2) the procedure to be followed for the completion and submission of the appeal taken hereunder; and (3) the procedure to be followed for filing a petition for and the issuance of a writ of certiorari.

(c) The scope of review to be afforded on certiorari shall be prescribed by the Court of Criminal Appeals.
R.L. 1910, § 5988; Laws 1965, c. 113, § 1; Laws 1970, c. 157, §§ 1, 2.

§22-1052. How governed.

An appeal from a judgment in a criminal action may be taken in the manner and in the cases prescribed in this article.
R.L.1910, § 5989.

§22-1053. Appeals taken by state or municipality – Allowable cases.

Appeals to the Court of Criminal Appeals may be taken by the state or a municipality in the following cases and no other:

1. Upon judgment for the defendant on quashing or setting aside an indictment or information;

2. Upon an order of the court arresting the judgment;

3. Upon a question reserved by the state or a municipality;

4. Upon judgment for the defendant on a motion to quash for insufficient evidence in a felony matter;

5. Upon a pretrial order, decision, or judgment suppressing or excluding evidence where appellate review of the issue would be in the best interests of justice; and

6. Upon a pretrial order, decision or judgment suppressing or excluding evidence in cases alleging violation of any provisions of Section 13.1 of Title 21 of the Oklahoma Statutes.

Priority shall be given to appeals taken pursuant to paragraph 5 or 6 of this section, and an order staying proceedings shall be entered pending the outcome of the appeal.

R.L.1910, § 5990. Amended by Laws 1978, c. 248, § 2, eff. July 1, 1978; Laws 1990, c. 261, § 3, emerg. eff. May 24, 1990; Laws 2002, c. 460, § 21, eff. Nov. 1, 2002; Laws 2009, c. 274, § 3, eff. Nov. 1, 2009.

§22-1053.1. Automatic appeal of judgments holding statutes unconstitutional in criminal actions.

Any final judgment entered by a district court in a criminal action rendering an act of the State Legislature to be unconstitutional shall be automatically appealed to the Court of Criminal Appeals, unless said act has been previously declared unconstitutional by said Court of Criminal Appeals. Such appeals shall be by the district attorney upon a reserved question of law.

Laws 1975, c. 270, § 1, eff. Oct. 1, 1975.

§22-1054. Time for perfecting appeal - Original record and transcript - Notice to transmit - Indigent defendants.

A. In misdemeanor and felony cases the appeal must be perfected within ninety (90) days from the date of the pronouncement of the judgment and sentence. A transcript in both felony and misdemeanor cases must be filed as hereinafter directed.

B. It shall be the duty of the clerk of the court from which notice of appeal has been given, and in which the original record and transcript are to be filed, to notify the clerk of the Court of Criminal Appeals when the original record and transcripts are assembled for transmission to the Court of Criminal Appeals, and the parties, or their counsel, have been advised to that effect. The clerk of the Court of Criminal Appeals shall, within ten (10) days after the receipt of the district court clerk's notice of the completion of the record, issue a notice to transmit the original and one certified copy of the appeal records to the clerk of the Court of Criminal Appeals and one certified copy of the original records and

transcripts to either the Oklahoma Indigent Defense System, pursuant to Section 1362 of this title, or the retained or other appointed counsel of record on appeal.

C. When the Oklahoma Indigent Defense System or another attorney has been appointed to represent an indigent defendant in an application for post-conviction relief where the defendant has received one or more sentences of death, the notice to the district court clerk shall require a certified copy be sent to the Oklahoma Indigent Defense System or the other attorney in addition to the copy provided for direct appeal.

R.L. 1910, § 5991. Amended by Laws 1953, p. 98, § 1; Laws 1961, p. 238, § 1; Laws 1963, c. 107, § 1; Laws 1963, c. 355, § 1; Laws 1965, c. 113, § 2, emerg. eff. May 19, 1965; Laws 1993, c. 298, § 5, eff. July 1, 1993; Laws 1995, c. 256, § 2, eff. Nov. 1, 1995.

§22-1054.1. Perfecting appeal without filing motion for new trial.

The right of a party to perfect an appeal from a judgment, order or decree of the trial court to the Court of Criminal Appeals shall not be conditioned upon his having filed in the trial court a motion for a new trial, but in the event a motion for a new trial is filed in the trial court by a party adversely affected by the judgment, order or decree, no appeal to the Court of Criminal Appeals may be taken until subsequent to the ruling by the trial court on the motion for a new trial.

Added by Laws 1985, c. 99, § 1, emerg. eff. May 28, 1985.

§22-1056. Appeal by state not to suspend judgment.

An appeal taken by the state in no case stays or affects the operation of the judgment in favor of the defendant, until the judgment is reversed.

R.L.1910, § 5993.

§22-1058. Conditions of bond - Surrender by sureties - Stay of execution - Confinement of defendant when crime not bailable.

If an appeal is taken and the appeal bond given as provided in the preceding section, said bond shall be conditioned that the defendant will appear, submit to and perform any judgment rendered by the Criminal Court of Appeals or the court in which the original judgment was rendered in the further progress of the cause, and will not depart without leave of the court. After the determination of the appeal in the Criminal Court of Appeals, or if the appeal is not perfected as provided by law, the defendant may be surrendered by the sureties to the proper authorities for the execution of the sentence. If the defendant be adjudged to be incarcerated in any penal institution and/or to pay a fine, said sureties shall be relieved of liability for such fine and costs upon surrender of the defendant to the proper authorities for incarceration pursuant to the judgment and

prior to forfeiture of the bond. If no bond be given the appeal shall not stay execution of the judgment, except in capital cases or where otherwise specifically provided by law. If pending the appeal the bond be given, a further execution of the judgment shall be stayed and the defendant released pending the determination of the appeal. In all cases where the sentence is for a crime not bailable the defendant shall be confined in the penitentiary pending the appeal.
R.L. 1910, § 5995; Laws 1935, p. 20, § 1.

§22-1062. Exceptions.

The exceptions stated in the case shall have the same effect as if they had been reduced to writing, allowed and signed by the judge at the time they were taken.
R.L.1910, § 5999.

§22-1065. Defendants may appeal jointly or severally.

When several defendants are tried jointly, any one or more of them may take an appeal, but those who do not join in the appeal shall not be affected thereby.
R.L.1910, § 6002.

§22-1066. Power of appellate court - Return by clerk of lower court when new trial granted.

The appellate court may reverse, affirm or modify the judgment or sentence appealed from, and may, if necessary or proper, order a new trial or resentencing. In either case, the cause must be remanded to the court below, with proper instructions, and the opinion of the court, within the time, and in the manner, to be prescribed by rule of the court.

If the case is reversed for a new trial, the clerk of the court from which such cause was appealed is required to make return showing that said case was specifically called to the attention of the trial court at the time of the setting of the docket following receipt of mandate, and showing the court's action in placing said cause on the docket for trial, said return to be made immediately after the trial and entry of judgment, or earlier disposal. Should the case not be retried and should it be dismissed by the court, return shall be made, giving the reasons stated by the court in his minutes justifying such dismissal.
Amended by Laws 1990, c. 261, § 2, emerg. eff. May 24, 1990.

§22-1067. Order when no offense committed - When indictment defective.

When a judgment against the defendant is reversed, and it appears that no offense whatever has been committed, the Criminal Court of Appeals must direct that the defendant be discharged; but if it

appears that the defendant is guilty of an offense although defectively charged in the indictment, the Criminal Court of Appeals must direct the prisoner to be returned and delivered over to the jailer of the proper county, there to abide the order of the court in which he was convicted.
R.L.1910, § 6004.

§22-1069. Appeal not dismissed for informality.
An appeal shall not be dismissed for any informality or defect in the taking thereof. If the same be corrected in a reasonable time after an appeal has been dismissed, another appeal may be taken.
R.L.1910, § 6006.

§22-1070. Judgment to be executed on affirmance.
On a judgment of affirmance against the defendant, the original judgment must be carried into execution, as the appellate court may direct.
R.L.1910, § 6007.

§22-1071. Opinions to be recorded.
All opinions of the Criminal Court of Appeals must be given in writing and recorded in the journal.
R.L.1910, § 6008.

§22-1071.1. Court of Criminal Appeals – Online publication of opinions.
Opinions of the Oklahoma Court of Criminal Appeals designated for official publication shall be published on the Oklahoma State Courts Network website. The Oklahoma Court of Criminal Appeals is hereby requested to provide notice of release of its opinion to all subscribers of record who have requested copies of opinions not less than two (2) business days prior to publication of the opinion on the website. Notice to the parties shall be made via electronic mail or on the website of the Oklahoma State Courts Network.
Added by Laws 2017, c. 380, § 3, eff. Nov. 1, 2017.

§22-1072. Record and enforcement of mandate or order in lower court - Return by clerk of lower court to clerk of Criminal Court of Appeals.
It is hereby made the duty of the court clerk in all counties, upon receipt from the Clerk of the Criminal Court of Appeals of any mandate or order of the Criminal Court of Appeals, to immediately and without any order from the court, or judge thereof, to spread said mandate or order of record in the proper court, and to issue and place in the hands of the proper officer appropriate process for carrying out such mandate or order.

That it shall be the duty of any such court clerk to immediately upon return being made by the officer to whom process is delivered, to thereafter make return to the Clerk of the Criminal Court of Appeals, showing the date that mandate was received, date filed and recorded, the date process was issued to the officer, and the date the process was served and whether the convicted person was incarcerated. If incarceration of the prisoner is delayed by reason of flight, or for any other cause for a period of more than fifteen (15) days after receipt of mandate, the return, under any such circumstance causing delay, must be immediately made to the Clerk of the Criminal Court of Appeals; and upon later apprehension of prisoner and incarceration, a further return must be made to the Clerk of the Criminal Court of Appeals, reporting the facts, within ten (10) days after such incarceration.
Laws 1927, c. 28, p. 46, § 1; Laws 1953, p. 99, § 3.

§22-1076. Notice to defendant of his right to appeal - Stay of execution of judgment.

The court shall at the time of entering judgment and sentence notify the defendant of his right to appeal. An appeal from a judgment of conviction stays the execution of the judgment in all cases where sentence of death is imposed, but does not stay the execution of the judgment in any other case unless the trial or appellate court shall so order.
Laws 1969, c. 182, § 1, emerg. eff. April 17, 1969.

§22-1077. Bail allowable.

Bail on appeal shall be allowed on appeal from a judgment of conviction of misdemeanor, or in felony cases where the punishment is a fine only, and when made and approved shall stay the execution of such judgment. Bail on appeal after the effective date of this act shall not be allowed after conviction of any of the following offenses:

1. Murder in any degree;
2. Kidnapping for purpose of extortion;
3. Robbery with a dangerous weapon;
4. Rape in any degree;
5. Arson in the first degree;
6. Shooting with intent to kill;
7. Manslaughter in the first degree;
8. Forcible sodomy;
9. Any felony conviction for which the evidence shows that the defendant used or was in possession of a firearm or other dangerous or deadly weapon during the commission of the offense;
10. Trafficking in illegal drugs;
11. Manufacturing a controlled dangerous substance;
12. Sexual abuse of a child; or

13. Any other felony after former conviction of a felony.

The granting or refusal of bail after judgment of conviction in all other felony cases shall rest in the discretion of the court; however, if bail is allowed, the trial court shall state the reason therefor.

Added by Laws 1969, c. 182, § 2, emerg. eff. April 17, 1969. Amended by Laws 1981, c. 258, § 1; Laws 1987, c. 136, § 7, eff. Nov. 1, 1987; Laws 1988, c. 109, § 28, eff. Nov. 1, 1988; Laws 2001, c. 234, § 1, eff. Nov. 1, 2001.

NOTE: Laws 2001, c. 225, § 7 repealed by Laws 2002, c. 22, § 34, emerg. eff. March 8, 2002.

§22-1078. Amount of bond - Time to make appeal bond - Stay pending appeal - Additional bond.

When bail is allowed, the court shall fix the amount of the appeal bond and the time in which the bond shall be given in order to stay the execution of the judgment pending the filing of the appeal in the appellate court, and until such bond is made shall hold the defendant in custody. If the bond be given in the time fixed by the court, the execution of the judgment shall be stayed during the time fixed by law for the filing of the appeal in the appellate court. If the appeal is filed within the time provided by law, then the bond shall stay the execution of the sentence during the pendency of the appeal, subject to the power of the court to require a new or additional bond when the same is by the court deemed necessary. If the bond is not given within the time fixed, or if given and the appeal not be filed in the appellate court within the time provided by law, the judgment of the court shall immediately be carried into execution.

Laws 1969, c. 182, § 3, emerg. eff. April 17, 1969.

§22-1079. Denial of bail - Review by habeas corpus.

If bail on appeal be denied, or the amount fixed be excessive, the defendant shall be entitled to a review of the action of the trial court and its reasons for refusing bail, by habeas corpus proceedings before the appellate court, or if the court be not in session, then by some judge of said court.

Laws 1969, c. 182, § 4, emerg. eff. April 17, 1969.

§22-1080. Post-Conviction Procedure Act - Right to challenge conviction or sentence.

Any person who has been convicted of, or sentenced for, a crime and who claims:

(a) that the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this state;

(b) that the court was without jurisdiction to impose sentence;

(c) that the sentence exceeds the maximum authorized by law;

(d) that there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;

(e) that his sentence has expired, his suspended sentence, probation, parole, or conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or

(f) that the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy;

may institute a proceeding under this act in the court in which the judgment and sentence on conviction was imposed to secure the appropriate relief. Excluding a timely appeal, this act encompasses and replaces all common law and statutory methods of challenging a conviction or sentence.

Added by Laws 1970, c. 220, § 1, eff. July 1, 1970.

§22-1081. Commencement of proceeding.

A proceeding is commenced by filing a verified "application for post-conviction relief" with the clerk of the court imposing judgment if an appeal is not pending. When such a proceeding arises from the revocation of parole or conditional release, the proceeding shall be commenced by filing a verified "application for post-conviction relief" with the clerk of the district court in the county in which the parole or conditional release was revoked. Facts within the personal knowledge of the applicant and the authenticity of all documents and exhibits included in or attached to the application must be sworn to affirmatively as true and correct. The Court of Criminal Appeals may prescribe the form of the application and verification. The clerk shall docket the application upon its receipt and promptly bring it to the attention of the court and deliver a copy to the district attorney.

Laws 1970, c. 220, § 2, eff. July 1, 1970.

§22-1082. Court costs and expenses of representation.

If the applicant is unable to pay court costs and expenses of representation, he shall include an affidavit to that effect with the application, which shall then be filed without costs. Counsel necessary in representation shall be made available to the applicant after filing the application on a finding by the court that such assistance is necessary to provide a fair determination of meritorious claims. If an attorney is appointed to represent such an applicant then the fees and expenses of such attorney shall be paid from the court fund.

Laws 1970, c. 220, § 3, eff. July 1, 1970.

§22-1083. Response by state - Disposition of application.

A. Within thirty (30) days after the docketing of the application, or within any further time the court may fix, the state shall respond by answer or by motion which may be supported by affidavits. When an applicant asserts a claim of ineffective assistance of counsel, the state shall have ninety (90) days after the docketing of the application to respond by answer or by motion. In considering the application, the court shall take account of substance, regardless of defects of form. If the application is not accompanied by the record of the proceedings challenged therein, the respondent shall file with its answer the record or portions thereof that are material to the questions raised in the application; or such records may be ordered by the court. The court may also allow depositions and affidavits for good cause shown.

B. When a court is satisfied, on the basis of the application, the answer or motion of respondent, and the record, that the applicant is not entitled to post-conviction relief and no purpose would be served by any further proceedings, it may order the application dismissed or grant leave to file an amended application. Disposition on the pleadings and record is not proper if there exists a material issue of fact. The judge assigned to the case should not dispose of it on the basis of information within his personal knowledge not made a part of the record.

C. The court may grant a motion by either party for summary disposition of the application when it appears from the response and pleadings that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. An order disposing of an application without a hearing shall state the court's findings and conclusions regarding the issues presented.

Added by Laws 1970, c. 220, § 4, eff. July 1, 1970. Amended by Laws 2014, c. 216, § 1, eff. Nov. 1, 2014.

§22-1084. Evidentiary hearing - Findings of fact and conclusions of law.

If the application cannot be disposed of on the pleadings and record, or there exists a material issue of fact, the court shall conduct an evidentiary hearing at which time a record shall be made and preserved. The court may receive proof by affidavits, depositions, oral testimony, or other evidence and may order the applicant brought before it for the hearing. A judge should not preside at such a hearing if his testimony is material. The court shall make specific findings of fact, and state expressly its conclusions of law, relating to each issue presented. This order is a final judgment.

Laws 1970, c. 220, § 5, eff. July 1, 1970.

§22-1085. Finding in favor of applicant.

If the court finds in favor of the applicant, it shall vacate and set aside the judgment and sentence and discharge or resentence him, or grant a new trial, or correct or modify the judgment and sentence as may appear appropriate. The court shall enter any supplementary orders as to rearraignment, retrial, custody, bail, discharge, or other matters that may be necessary and proper.
Laws 1970, c. 220, § 6, eff. July 1, 1970.

§22-1086. Subsequent application.

All grounds for relief available to an applicant under this act must be raised in his original, supplemental or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding the applicant has taken to secure relief may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the prior application.
Laws 1970, c. 220, § 7, eff. July 1, 1970.

§22-1087. Appeal to Court of Criminal Appeals.

A final judgment entered under this act may be appealed to the Court of Criminal Appeals on petition in error filed either by the applicant or the state within thirty (30) days from the entry of the judgment. Upon motion of either party on filing of notice of intent to appeal, within ten (10) days of entering the judgment, the district court may stay the execution of the judgment pending disposition on appeal; provided, the Court of Criminal Appeals may direct the vacation of the order staying the execution prior to final disposition of the appeal.
Laws 1970, c. 220, § 8, eff. July 1, 1970.

§22-1088. Short title.

This act may be cited as the "Post-Conviction Procedure Act".
Laws 1970, c. 220, § 9.

§22-1088.1. Post-conviction relief applications - Reasonable inquiry - Sanctions.

A. By presenting to the court, whether by signing, filing, submitting, or later advocating, a pleading, written motion or other papers regarding an application for post-conviction relief an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

1. It is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

2. The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and

3. The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

B. If, after notice and a reasonable opportunity to respond, the Court of Criminal Appeals determines that this section has been violated, the court may impose an appropriate sanction upon the attorneys, law firms, or parties that have violated this section. The Court of Criminal Appeals may adopt and publish rules to implement this section.

Added by Laws 1995, c. 256, § 3, eff. Nov. 1, 1995.

§22-1089. Capital cases - Post - conviction relief - Grounds for appeal.

A. The application for post-conviction relief of a defendant who is under the sentence of death in one or more counts and whose death sentence has been affirmed or is being reviewed by the Court of Criminal Appeals in accordance with the provisions of Section 701.13 of Title 21 of the Oklahoma Statutes shall be expedited as provided in this section. The provisions of this section also apply to noncapital sentences in a case in which the defendant has received one or more sentences of death.

B. The Oklahoma Indigent Defense System shall represent all indigent defendants in capital cases seeking post-conviction relief upon appointment by the appropriate district court after a hearing determining the indigency of any such defendant. When the Oklahoma Indigent Defense System or another attorney has been appointed to represent an indigent defendant in an application for post-conviction relief, the Clerk of the Court of Criminal Appeals shall include in its notice to the district court clerk, as required by Section 1054 of this title, that an additional certified copy of the appeal record is to be transmitted to the Oklahoma Indigent Defense System or the other attorney.

C. The only issues that may be raised in an application for post-conviction relief are those that:

1. Were not and could not have been raised in a direct appeal; and

2. Support a conclusion either that the outcome of the trial would have been different but for the errors or that the defendant is factually innocent.

The applicant shall state in the application specific facts explaining as to each claim why it was not or could not have been raised in a direct appeal and how it supports a conclusion that the

outcome of the trial would have been different but for the errors or that the defendant is factually innocent.

D. 1. The application for post-conviction relief shall be filed in the Court of Criminal Appeals within ninety (90) days from the date the appellee's brief on direct appeal is filed or, if a reply brief is filed, ninety (90) days from the filing of that reply brief with the Court of Criminal Appeals on the direct appeal. Where the appellant's original brief on direct appeal has been filed prior to November 1, 1995, and no application for post-conviction relief has been filed, any application for post-conviction relief must be filed in the Court of Criminal Appeals within one hundred eighty (180) days of November 1, 1995. The Court of Criminal Appeals may issue orders establishing briefing schedules or enter any other orders necessary to extend the time limits under this section in cases where the original brief on direct appeal has been filed prior to November 1, 1995.

2. All grounds for relief that were available to the applicant before the last date on which an application could be timely filed not included in a timely application shall be deemed waived.

No application may be amended or supplemented after the time specified under this section. Any amended or supplemental application filed after the time specified under this section shall be treated by the Court of Criminal Appeals as a subsequent application.

3. Subject to the specific limitations of this section, the Court of Criminal Appeals may issue any orders as to discovery or any other orders necessary to facilitate post-conviction review.

4. a. The Court of Criminal Appeals shall review the application to determine:
   (1) whether controverted, previously unresolved factual issues material to the legality of the applicant's confinement exist,
   (2) whether the applicant's grounds were or could have been previously raised, and
   (3) whether relief may be granted under this act.

b. For purposes of this subsection, a ground could not have been previously raised if:
   (1) it is a claim of ineffective assistance of trial counsel involving a factual basis that was not ascertainable through the exercise of reasonable diligence on or before the time of the direct appeal, or
   (2) it is a claim contained in an original timely application for post-conviction relief relating to ineffective assistance of appellate counsel.

All claims of ineffective assistance of counsel shall be governed by clearly established law as determined by the United States Supreme Court.

If the Court of Criminal Appeals determines that controverted, previously unresolved factual issues material to the legality of the applicant's confinement do not exist, or that the claims were or could have been previously raised, or that relief may not be granted under this act and enters an order to that effect, the Court shall make findings of fact and conclusions of law or may order the parties to file proposed findings of fact and conclusions of law for the Court to consider on or before a date set by the Court that is not later than thirty (30) days after the date the order is issued. The Court of Criminal Appeals shall make appropriate written findings of fact and conclusions of law not later than fifteen (15) days after the date the parties filed proposed findings.

5. If the Court of Criminal Appeals determines that controverted, previously unresolved factual issues material to the legality of the applicant's confinement do exist, and that the application meets the other requirements of paragraph 4 of this subsection, the Court shall enter an order to the district court that imposed the sentence designating the issues of fact to be resolved and the method by which the issues shall be resolved.

The district court shall not permit any amendments or supplements to the issues remanded by the Court of Criminal Appeals except upon motion to and order of the Court of Criminal Appeals subject to the limitations of this section.

The Court of Criminal Appeals shall retain jurisdiction of all cases remanded pursuant to this act.

6. The district attorney's office shall have twenty (20) days after the issues are remanded to the district court within which to file a response. The district court may grant one extension of twenty (20) days for good cause shown and may issue any orders necessary to facilitate post-conviction review pursuant to the remand order of the Court of Criminal Appeals. Any applications for extension beyond the twenty (20) days shall be presented to the Court of Criminal Appeals. If the district court determines that an evidentiary hearing should be held, that hearing shall be held within thirty (30) days from the date that the state filed its response. The district court shall file its decision together with findings of fact and conclusions of law with the Court of Criminal Appeals within forty-five (45) days from the date that the state filed its response or within forty-five (45) days from the date of the conclusion of the evidentiary hearing.

7. Either party may seek review by the Court of Criminal Appeals of the district court's determination of the issues remanded by the Court of Criminal Appeals within ten (10) days from the entry of judgment. Such party shall file a notice of intent to seek review

and a designation of record in the district court within ten (10) days from the entry of judgment. A copy of the notice of intent to seek review and the designation of the record shall be served on the court reporter, the petitioner, the district attorney, and the Attorney General, and shall be filed with the Court of Criminal Appeals. A petition in error shall be filed with the Court of Criminal Appeals by the party seeking review within thirty (30) days from the entry of judgment. If an evidentiary hearing was held, the court reporter shall prepare and file all transcripts necessary for the appeal within sixty (60) days from the date the notice and designation of record are filed. The petitioner's brief-in-chief shall be filed within forty-five (45) days from the date the transcript is filed in the Court of Criminal Appeals or, if no evidentiary hearing was held, within forty-five (45) days from the date of the filing of the notice. The respondent shall have twenty (20) days thereafter to file a response brief. The district court clerk shall file the records on appeal with the Court of Criminal Appeals on or before the date the petitioner's brief-in-chief is due. The Court of Criminal Appeals shall issue an opinion in the case within one hundred twenty (120) days of the filing of the response brief or at the time the direct appeal is decided. If no review is sought within the time specified in this section, the Court of Criminal Appeals may adopt the findings of the district court and enter an order within fifteen (15) days of the time specified for seeking review or may order additional briefing by the parties. In no event shall the Court of Criminal Appeals grant post-conviction relief before giving the state an opportunity to respond to any and all claims raised to the Court.

8. If an original application for post-conviction relief is untimely or if a subsequent application for post-conviction relief is filed after filing an original application, the Court of Criminal Appeals may not consider the merits of or grant relief based on the subsequent or untimely original application unless:

a. the application contains claims and issues that have not been and could not have been presented previously in a timely original application or in a previously considered application filed under this section, because the legal basis for the claim was unavailable, or

b. (1) the application contains sufficient specific facts establishing that the current claims and issues have not and could not have been presented previously in a timely original application or in a previously considered application filed under this section, because the factual basis for the claim was unavailable as it was not ascertainable

through the exercise of reasonable diligence on or before that date, and

(2) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for the alleged error, no reasonable fact finder would have found the applicant guilty of the underlying offense or would have rendered the penalty of death.

9. For purposes of this act, a legal basis of a claim is unavailable on or before a date described by this subsection if the legal basis:

a. was not recognized by or could not have been reasonably formulated from a final decision of the United States Supreme Court, a court of appeals of the United States, or a court of appellate jurisdiction of this state on or before that date, or

b. is a new rule of constitutional law that was given retroactive effect by the United States Supreme Court or a court of appellate jurisdiction of this state and had not been announced on or before that date.

E. All matters not specifically governed by the provisions of this section shall be subject to the provisions of the Post-Conviction Procedure Act. If the provisions of this act conflict with the provisions of the Post-Conviction Procedure Act, the provisions of this act shall govern.

Added by Laws 1987, c. 153, § 1, eff. Nov. 1, 1987. Amended by Laws 1995, c. 256, § 4, eff. Nov. 1, 1995; Laws 2004, c. 164, § 2, eff. Nov. 1, 2004; Laws 2006, c. 290, § 2, eff. July 1, 2006.

§22-1089.1. State may appeal certain adverse rulings or orders.

The State of Oklahoma, by and through the district attorney or Attorney General, shall have the right to appeal an adverse ruling or order of a magistrate sustaining a motion to suppress evidence, quashing an information, sustaining a plea to the jurisdiction of the court, failing to find prosecutive merit in a hearing pursuant to Section 2-2-403 of Title 10A of the Oklahoma Statutes, sustaining a demurrer to the information, binding the defendant over for trial on a charge other than the charge for the original offense, or discharging a defendant at the preliminary examination because of insufficiency of the evidence to establish either that a crime has been committed or that there is probable cause to believe that the accused has committed a felony. Such an appeal shall be taken in accordance with the procedures provided in this act.

Added by Laws 1987, c. 162, § 1, emerg. eff. June 25, 1987. Amended by Laws 1989, c. 348, § 15, eff. Nov. 1, 1989; Laws 2009, c. 234, § 133, emerg. eff. May 21, 2009.

§22-1089.2. Notice of intent to appeal - Application to appeal.

A. If in open court at the time the adverse ruling or order is made by the magistrate, the state shall give notice of its intention to appeal the decision. The magistrate shall then enter the notice in the proper court docket, continue the preliminary hearing and retain the accused on the present bond or if the person is in custody, return the accused to custody. The state shall file with the court clerk a written application to appeal from the adverse ruling or order of the magistrate within five (5) days from the date of the adverse ruling or order.

B. If not in open court at the time the adverse ruling or order is made by the magistrate, within five (5) days from the date of the adverse ruling or order, the state shall file with the court clerk a written application to appeal from the adverse ruling or order of the magistrate.

C. A copy of the application to appeal shall immediately be presented by the state to the Presiding Judge of the Judicial Administrative District. The Presiding Judge shall assign the application to another district judge or associate district judge within the same judicial administrative district, and shall order the assigned judge to set said matter for hearing and decision within twenty (20) days from the filing of the written application to appeal and shall provide at least three (3) days' notice to all parties of the time and place of the hearing. In the absence of the Presiding Judge of the Judicial Administrative District, the Acting Presiding Judge shall perform the duties of the Presiding Judge as set forth above. The identity of the Acting Presiding Judge, if not known locally, may be obtained from the Administrative Director of the Courts at his office in Oklahoma City.

Added by Laws 1987, c. 162, § 2, emerg. eff. June 25, 1987. Amended by Laws 2002, c. 460, § 22, eff. Nov. 1, 2002.

§22-1089.3. Waiver of right to appeal.

In the event the state does not file the application to appeal as provided in Section 2 of this act, the state shall have waived any right to appeal from the magistrate's adverse decision. The magistrate's order shall then be final.

Added by Laws 1987, c. 162, § 3, emerg. eff. June 25, 1987.

§22-1089.4. Review of record.

The judge assigned the state's application to appeal shall review all relevant portions of the record of the case before the magistrate, including, but not limited to, partial or complete transcripts of the preliminary hearing; affidavits for a search warrant; search warrants; electronic recording tapes, belts or discs;

written stipulations of facts; or any evidence which was presented at the preliminary hearing.
Added by Laws 1987, c. 162, § 4, emerg. eff. June 25, 1987.

§22-1089.5. Preliminary hearing - Review of record in light most favorable to state.

In the event that the state appeals the ruling of the preliminary hearing magistrate ordering a defendant discharged based upon a finding of insufficiency of the evidence to establish that a felony has been committed or insufficiency of the evidence to show that there is probable cause to believe that the accused has committed a felony, the assigned judge shall determine, based upon the entire record developed before the magistrate, whether the evidence, taken in the light most favorable to the state, is sufficient to find that a felony crime has been committed and that the defendant probably committed said crime.
Added by Laws 1987, c. 162, § 5, emerg. eff. June 25, 1987.

§22-1089.6. Erroneous ruling or order - Remand.

In the event the assigned judge finds, based upon the record developed before the magistrate, that the magistrate's ruling or order was in error, the assigned judge shall enter an order finding that the ruling or order entered by the magistrate was erroneous and shall remand the cause to the magistrate with directions to enter a proper ruling or order.
Added by Laws 1987, c. 162, § 6, emerg. eff. June 25, 1987.

§22-1089.7. Appeal to Court of Criminal Appeals - Bail - Review.

In the event the state's application to appeal is denied and the assigned judge affirms the magistrate's ruling or order, that ruling or order shall be appealable to the Court of Criminal Appeals. During the pendency of any such appeal, the assigned judge shall admit the defendant to bail upon his own recognizance. The Court of Criminal Appeals shall affirm, reverse or modify the magistrate's order and remand the cause for further proceedings consistent with its ruling.
Added by Laws 1987, c. 162, § 7, emerg. eff. June 25, 1987.

§22-1091. Short title.

This act may be cited as the “Interstate Compact for Adult Offender Supervision”.
Added by Laws 2000, c. 281, § 1, eff. July 1, 2000.

§22-1092. Legislative findings, declarations, and intent.

It is hereby found and declared that:

1. The Interstate Compact for the Supervision of Parolees and Probationers, established in 1937, was the earliest corrections

compact established among the states and has not been amended since its adoption over sixty-two (62) years ago;

2. The Interstate Compact for the Supervision of Parolees and Probationers is the only vehicle for the controlled movement of adult parolees and probationers across state lines, and it provides jurisdiction over more than a quarter of a million offenders;

3. The complexities of this compact have become more difficult to administer, and many jurisdictions have expanded supervision expectations to include unregulated practices such as victim input, victim notification requirements and sex offender registration;

4. After hearings, national surveys, and a detailed study by a task force appointed by the National Institute of Corrections, the overwhelming recommendation has been to enact a new compact to bring about an effective management capacity that addresses public safety concerns and offender accountability; and

5. Upon the adoption of the Interstate Compact for Adult Offender Supervision, it is the intention of the legislature to repeal the Uniform Act for Out-of-State Parolee Supervision, Sections 347, et seq. of Title 57 of the Oklahoma Statutes.

Added by Laws 2000, c. 281, § 2, eff. July 1, 2000.

§22-1093. Execution and form of Compact.

The Governor is hereby authorized and directed to execute a compact on behalf of this State with any other state or states legally joining therein in the form, substantially as follows:

INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION

ARTICLE I. FINDINGS AND PURPOSES

A. The Compacting States to this Interstate Compact recognize:

1. That each state is responsible for the supervision of adult offenders in the community who are authorized pursuant to the Bylaws and Rules of this compact to travel across state lines both to and from each compacting state in such manner as to track the location of offenders, transfer supervision authority in an orderly and efficient manner, and when necessary return offenders to the originating jurisdictions; and

2. That Congress, by enacting the Crime Control Act, 4 U.S.C., Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

B. The purposes of this compact and the Interstate Commission created hereunder, through means of joint and cooperative action among the Compacting States, are to:

1. Provide the framework for the promotion of public safety and protect the rights of victims through the control and regulation of the interstate movement of offenders in the community;

2. Provide for the effective tracking, supervision, and rehabilitation of these offenders by the sending and receiving states; and

3. Equitably distribute the costs, benefits, and obligations of the compact among the Compacting States.

C. This compact will:

1. Create an interstate commission which will establish uniform procedures to manage the movement between states of adults placed under community supervision and released to the community under the jurisdiction of courts, paroling authorities, corrections or other criminal justice agencies which will promulgate rules to achieve the purpose of this compact;

2. Ensure an opportunity for input and timely notice to victims and to jurisdictions where defined offenders are authorized to travel or to relocate across state lines;

3. Establish a system of uniform data collection, access to information on active cases by authorized criminal justice officials, and regular reporting of compact activities to heads of state councils, state executive, judicial, and legislative branches and criminal justice administrators;

4. Monitor compliance with rules governing interstate movement of offenders and initiate interventions to address and correct non-compliance; and

5. Coordinate training and education regarding regulations of interstate movement of offenders for officials involved in such activity.

D. The compacting states recognize that there is no "right" of any offender to live in another state and that duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any offender under supervision subject to the provisions of this compact and Bylaws and Rules promulgated hereunder.

E. It is the policy of the compacting states that the activities conducted by the Interstate Commission created herein are the formation of public policies and are therefore public business.

ARTICLE II. DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

1. "Adult" means individuals legally classified as adults and juveniles treated as adults by court order, statute, or operation of law;

2. "Bylaws" means the bylaws established by the Interstate Commission for its governance, or for directing or controlling the Interstate Commission's actions or conduct;

3. "Compact Administrator" means the individual in each compacting state appointed pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact;

4. "Compacting state" means any state which has enacted the enabling legislation for this compact;

5. "Commissioner" means the voting representative of each compacting state appointed pursuant to Article III of this compact;

6. "Interstate Commission" means the Interstate Commission for Adult Offender Supervision established by this compact;

7. "Member" means the commissioner of a compacting state or designee who shall be a person officially connected with the commissioner;

8. "Noncompacting state" means any state which has not enacted the enabling legislation for this compact;

9. "Offender" means an adult placed under, or subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies;

10. "Person" means any individual, corporation, business enterprise, or other legal entity, public or private;

11. "Rules" means acts of the Interstate Commission, duly promulgated pursuant to Article VIII of this compact, substantially affecting interested parties in addition to the Interstate Commission, which shall have the force and effect of law in the Compacting States;

12. "State" means a state of the United States, the District of Columbia, and any other territorial possessions of the United States; and

13. "State Council" means the resident members of the State Council for Interstate Adult Offender Supervision created by each state under Article III of this compact.

ARTICLE III. THE COMPACT COMMISSION

A. The Compacting States hereby create the Interstate Commission for Adult Offender Supervision.

B. The Interstate Commission shall be a body corporate and joint agency of the Compacting States. The Interstate Commission shall have all the responsibilities, powers and duties set forth herein, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the Compacting States in accordance with the terms of this compact.

C. The Interstate Commission shall consist of Commissioners selected and appointed by resident members of a State Council for Interstate Adult Offender Supervision for each state. In addition to the Commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not Commissioners but who are members of interested organizations; such non-commissioner members must include a member of national organizations of governors, legislators, state chief justices, attorneys general, and crime victims. All non-commissioner members

of the Interstate Commission shall be ex-officio, (nonvoting) members. The Interstate Commission may provide in its bylaws for such additional, ex-officio, nonvoting members as it deems necessary.

D. Each compacting state represented at any meeting of the Interstate Commission is entitled to one vote. A majority of the Compacting States shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission. The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of twenty-seven or more Compacting States, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

E. The Interstate Commission shall establish an Executive Committee which shall include commission officers, members, and others as shall be determined by the bylaws. The Executive Committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of rulemaking and/or amendment to the Compact. The Executive Committee oversees the day-to-day activities managed by the Executive Director and Interstate Commission staff, administers enforcement and compliance with the provisions of the compact, its bylaws and as directed by the Interstate Commission and performs other duties as directed by the Interstate Commission or set forth in the bylaws.

ARTICLE IV: THE STATE COUNCIL

Each member state shall create a State Council for Interstate Adult Offender Supervision which shall be responsible for the appointment of the commissioner who shall serve on the Interstate Commission from that state. Each state council shall appoint as its commissioner the Compact Administrator from that state to serve on the National Interstate Commission in such capacity under or pursuant to applicable law of the member state. While each member state may determine the membership of its own state council, its membership must include at least one representative from the legislative, judicial, and executive branches of government, victims groups and compact administrators. Each compacting state retains the right to determine the qualifications of the Compact Administrator who shall be appointed by the state council or by the Governor in consultation with the Legislature and the Judiciary. In addition to appointment of its commissioner to the National Interstate Commission, each state council shall exercise oversight and advocacy concerning its participation in Interstate Commission activities and other duties as may be determined by each member state, including, but not limited to, development of policy concerning operations and procedures of the compact within that state.

ARTICLE V. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

1. To adopt a seal and suitable bylaws governing the management and operation of the Interstate Commission;

2. To promulgate rules which shall have the force and effect of statutory law and shall be binding in the Compacting States to the extent and in the manner provided in this compact;

3. To oversee, supervise, and coordinate the interstate movement of offenders subject to the terms of this compact and any bylaws adopted and rules promulgated by the compact commission;

4. To enforce compliance with compact provisions, Interstate Commission rules, and bylaws, using all necessary and proper means, including, but not limited to, the use of judicial process;

5. To establish and maintain offices;

6. To purchase and maintain insurance and bonds;

7. To borrow, accept, or contract for services of personnel, including, but not limited to, members and their staffs;

8. To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions, including, but not limited to, an executive committee as required by Article III which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder;

9. To elect or appoint officers, attorneys, employees, agents, or consultants; to fix their compensation, define their duties, and determine their qualifications; and to establish the Interstate Commission’s personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel;

10. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of same;

11. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed;

12. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal, or mixed;

13. To establish a budget, make expenditures, and levy dues as provided in Article X of this compact;

14. To sue and be sued;

15. To provide for dispute resolution among Compacting States;

16. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact;

17. To report annually to the legislatures, governors, judiciary, and state councils of the Compacting States concerning the activities of the Interstate Commission during the preceding year. Such reports shall include any recommendations that may have been adopted by the Interstate Commission;

18. To coordinate education, training and public awareness regarding the interstate movement of offenders for officials involved in such activity; and

19. To establish uniform standards for the reporting, collecting, and exchanging of data.

ARTICLE VI.

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall, by a majority of the Members, within twelve (12) months of the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the Compact, including, but not limited to:

1. Establishing the fiscal year of the Interstate Commission;

2. Establishing an executive committee and such other committees as may be necessary;

3. Providing reasonable standards and procedures for the establishment of committees and the general or specific delegation of any authority or function of the Interstate Commission;

4. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;

5. Establishing the titles and responsibilities of the officers of the Interstate Commission;

6. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Interstate Commission; provided that notwithstanding any civil service or other similar laws of any compacting state, the Bylaws shall exclusively govern the personnel policies and programs of the Interstate Commission;

7. Providing a mechanism for winding up the operations of the Interstate Commission and the equitable return of any surplus funds that may exist upon the termination of the Compact after the payment and/or reserving of all of its debts and obligations;

8. Providing transition rules for start-up administration of the compact; and

9. Establishing standards and procedures for compliance and technical assistance in carrying out the compact.

B. 1. The Interstate Commission shall, by a majority of the Members, elect from among its Members a chairperson and a vice-chairperson, each of whom shall have such authorities and duties as may be specified in the bylaws. The chairperson or, in the chairperson’s absence or disability, the vice-chairperson shall preside at all meetings of the Interstate Commission. The Officers so selected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of

their duties and responsibilities as officers of the Interstate Commission.

2. The Interstate Commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, and hire and supervise such other staff as may be authorized by the Interstate Commission, but shall not be a member.

C. The Interstate Commission shall maintain its corporate books and records in accordance with the bylaws.

D. 1. The Members, officers, executive director, and employees of the Interstate Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities; provided, that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

2. The Interstate Commission shall defend the commissioner of a compacting state, or the commissioner's representatives or employees, or the Interstate Commission's representatives or employees in any civil action seeking to impose liability, arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities. Provided, that the actual or alleged act, error, or omission did not result from intentional wrongdoing on the part of such person.

3. The Interstate Commission shall indemnify and hold the commissioner of a Compacting State, the appointed designees or employees, or the Interstate Commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such person had reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities; provided, that the actual or alleged act, error, or omission did not result from gross negligence or intentional wrongdoing on the part of such person.

ARTICLE VII.
ACTIVITIES OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall meet and take such actions as are consistent with the provisions of this Compact.

B. Except as otherwise provided in this compact and unless a greater percentage is required by the bylaws, in order to constitute an act of the Interstate Commission, each act shall have been taken at a meeting of the Interstate Commission and shall have received an affirmative vote of a majority of the members present.

C. Each member of the Interstate Commission shall have the right and power to cast a vote to which that Compacting State is entitled and to participate in the business and affairs of the Interstate Commission. A Member shall vote in person on behalf of the state and shall not delegate a vote to another member state. However, a State Council shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the member state at a specified meeting. The bylaws may provide for Members' participation in meetings by telephone or other means of telecommunication or electronic communication. Any voting conducted by telephone or other means of telecommunication or electronic communication shall be subject to the same quorum requirements of meetings where members are present in person.

D. The Interstate Commission shall meet at least once during each calendar year. The chair of the Interstate Commission may call additional meetings at any time and, upon the request of a majority of the members, shall call additional meetings.

E. The Interstate Commission's bylaws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests. In promulgating such rules, the Interstate Commission may make available to law enforcement agencies records and information otherwise exempt from disclosure and may enter into agreements with law enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

F. Public notice shall be given of all meetings, and all meetings shall be open to the public except as set forth in the rules or as otherwise provided in the Compact. The Interstate Commission shall promulgate rules consistent with the principles contained in the Government in Sunshine Act, Section 552(b), of Title 5 of the United States Code. The Interstate Commission and any of its committees may close a meeting to the public where it determines by a two-thirds vote that an open meeting would be likely to:

1. Relate solely to the Interstate Commission's internal personnel practices and procedures;

2. Disclose matters specifically exempted from disclosure by statute;

3. Disclose trade secrets or commercial or financial information which is privileged or confidential;

4. Involve accusing any person of a crime or formally censuring any person;

5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

6. Disclose investigatory records compiled for law enforcement purposes;

7. Disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of, or for the use of, the Interstate Commission with respect to a regulated entity for the purpose of regulation or supervision of such entity;

8. Disclose information, the premature disclosure of which would significantly endanger the life of a person or the stability of a regulated entity;

9. Relate specifically to the Interstate Commission's issuance of a subpoena or its participation in a civil action or proceeding.

G. For every meeting closed pursuant to this provision, the Interstate Commission's chief legal officer shall publicly certify that, in the officer's opinion, the meeting may be closed to the public and shall reference each relevant exemptive provision.

H. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll-call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

I. The Interstate Commission shall collect standardized data concerning the interstate movement of offenders as directed through its Bylaws and Rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements.

ARTICLE VIII.

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall promulgate rules in order to effectively and efficiently achieve the purposes of the compact including transition rules governing administration of the compact during the period in which it is being considered and enacted by the states.

B. Rulemaking shall occur pursuant to the criteria set forth in this Article and the Bylaws and Rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the federal Administrative Procedure Act, Section 551, et seq. of Title 5 of the United States Code, and the Federal Advisory Committee Act, App. 2, Section 1, et seq. of Title 5 of the United State Code, as

may be amended (APA). All Rules and amendments shall become binding as of the date specified in each Rule or amendment.

C. If a majority of the legislatures of the Compacting States rejects a Rule by enactment of a statute or resolution in the same manner used to adopt the compact, then such Rule shall have no further force and effect in any Compacting State.

D. When promulgating a rule, the Interstate Commission shall:

1. Publish the proposed rule stating with particularity the text of the rule which is proposed and the reason for the proposed rule;

2. Allow persons to submit written data, facts, opinions, and arguments which information shall be publicly available;

3. Provide an opportunity for an informal hearing; and

4. Promulgate a final rule and its effective date, if appropriate, based on the rulemaking record.

E. Not later than sixty (60) days after a Rule is promulgated, any interested person may file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such Rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence (as defined in the APA) in the rulemaking record, the court shall hold the Rule unlawful and set it aside.

F. Subjects to be addressed in rules within twelve (12) months after the first meeting must at a minimum include:

1. Notice to victims and opportunity to be heard;

2. Offender registration and compliance;

3. Violations/returns;

4. Transfer procedures and forms;

5. Eligibility for transfer;

6. Collection of restitution and fees from offenders;

7. Data collection and reporting;

8. Level of supervision to be provided by the receiving state;

9. Transition rules governing the operation of the compact and the Interstate Commission during all or part of the period between the effective date of the compact and the date on which the last eligible state adopts the compact;

10. Mediation, arbitration, and dispute resolution.

G. The existing rules governing the operation of the previous compact superceded by this act shall be null and void twelve (12) months after the first meeting of the Interstate Commission created hereunder.

H. Upon determination by the Interstate Commission that an emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption; provided, that the usual rulemaking procedures shall be retroactively applied to said rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule.

ARTICLE IX.
OVERSIGHT, ENFORCEMENT, AND
DISPUTE RESOLUTION BY THE INTERSTATE COMMISSION

A. 1. The Interstate Commission shall oversee the interstate movement of adult offenders in the Compacting States and shall monitor such activities being administered in Non-Compacting States which may significantly affect Compacting States.

2. The courts and executive agencies in each Compacting State shall enforce this Compact and shall take all actions necessary and appropriate to effectuate the Compact's purposes and intent. In any judicial or administrative proceeding in a Compacting State pertaining to the subject matter of this Compact which may affect the powers, responsibilities or actions of the Interstate Commission, the Interstate Commission shall be entitled to receive all service of process in any such proceeding and shall have standing to intervene in the proceeding for all purposes.

B. 1. The Compacting States shall report to the Interstate Commission on issues or activities of concern to them and cooperate with and support the Interstate Commission in the discharge of its duties and responsibilities.

2. The Interstate Commission shall attempt to resolve any disputes or other issues which are subject to the Compact and which may arise among Compacting States and Non-Compacting States.

3. The Interstate Commission shall enact a Bylaw or promulgate a Rule providing for both mediation and binding dispute resolution for disputes among Compacting States.

C. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions of this Compact using any or all means set forth in Article XII, Section B, of this Compact.

ARTICLE X. FINANCE

A. The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

B. The Interstate Commission shall levy on and collect an annual assessment from each Compacting State to cover the cost of the internal operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of the state and the volume of interstate movement of offenders in each compacting state and shall promulgate a rule binding upon all Compacting States which governs said assessment.

C. The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same. Nor shall the Interstate Commission pledge the credit of any of the

Compacting States except by and with the authority of the compacting state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE XI.

COMPACTING STATES, EFFECTIVE DATE, AND AMENDMENT

A. Any state, as defined in Article II of this Compact, is eligible to become a Compacting State. The Compact shall become effective and binding upon legislative enactment of the Compact into law by no fewer than thirty-five of the States. The initial effective date shall be the later of July 1, 2001, or upon enactment into law by the thirty-fifth jurisdiction. Thereafter, it shall become effective and binding as to any other Compacting State upon enactment of the Compact into law by that State. The governors of Nonmember states or their designees will be invited to participate in Interstate Commission activities on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.

B. Amendments to the Compact may be proposed by the Interstate Commission for enactment by the Compacting States. No amendment shall become effective and binding upon the Interstate Commission and the Compacting States unless and until it is enacted into law by unanimous consent of the Compacting States.

ARTICLE XII.

WITHDRAWAL, DEFAULT, TERMINATION, AND JUDICIAL ENFORCEMENT

A. 1. Once effective, the Compact shall continue in force and remain binding upon each Compacting State; provided that a Compacting State may withdraw from the compact ("Withdrawing State") by enacting a statute specifically repealing the statute which enacted the Compact into law. The effective date of withdrawal is the effective date of the repeal.

2. The Withdrawing State shall immediately notify the Chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this Compact in the Withdrawing State. The Interstate Commission shall notify the other Compacting States of the Withdrawing State's intent to withdraw within sixty (60) days of its receipt of the notice.

3. The Withdrawing State is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

4. Reinstatement following withdrawal of any Compacting State shall occur upon the reenactment of the Compact by the Withdrawing State or upon such later date as determined by the Interstate Commission.

B. If the Interstate Commission determines that any Compacting State has at any time defaulted ("Defaulting State") in the performance of any of its obligations or responsibilities under this Compact, the Bylaws or any duly promulgated Rules, the Interstate Commission may impose any or all of the following penalties:

a. fines, fees, and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission,

b. remedial training and technical assistance as directed by the Interstate Commission,

c. suspension and termination of membership in the compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the Bylaws and Rules have been exhausted. Immediate notice of suspension shall be given by the Interstate Commission to the Governor, the Chief Justice or Chief Judicial Officer of the state, the majority and minority leaders of the defaulting state's legislature, and the State Council.

C. 1. The grounds for default include, but are not limited to, failure of a Compacting State to perform such obligations or responsibilities imposed upon it by this Compact, Interstate Commission Bylaws, or duly promulgated Rules. The Interstate Commission shall immediately notify the Defaulting State in writing of the penalty imposed by the Interstate Commission on the Defaulting State pending a cure of the default. The Interstate Commission shall stipulate the conditions and the time period within which the Defaulting State must cure its default. If the Defaulting State fails to cure the default within the time period specified by the Interstate Commission, in addition to any other penalties imposed herein, the Defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the Compacting States and all rights, privileges, and benefits conferred by this Compact shall be terminated from the effective date of suspension.

2. Within sixty (60) days of the effective date of termination of a Defaulting State, the Interstate Commission shall notify the Governor, the Chief Justice or Chief Judicial Officer, and the Majority and Minority Leaders of the Defaulting State's Legislature and the State Council of such termination.

3. The defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

4. The Interstate Commission shall not bear any costs relating to the Defaulting State unless otherwise mutually agreed upon between the Interstate Commission and the Defaulting State. Reinstatement following termination of any compacting state requires both a reenactment of the Compact by the Defaulting State and the approval of the Interstate Commission pursuant to the Rules.

D. The Interstate Commission may, by a majority vote of the Members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the Federal District where the Interstate Commission has its offices to enforce compliance with the provisions of the Compact, its duly promulgated Rules and Bylaws against any Compacting State in default. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorney fees.

E. The Compact dissolves effective upon the date of the withdrawal or default of a Compacting State which reduces membership in the Compact to one Compacting State. Upon dissolution of this Compact, the Compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be wound up, and any surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XIII.

SEVERABILITY AND CONSTRUCTION

A. The provisions of this Compact shall be severable. If any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the Compact shall be enforceable.

B. The provisions of this Compact shall be liberally construed to effectuate its purposes.

ARTICLE XIV.

BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Nothing in this Compact prevents the enforcement of any other law of a Compacting State that is not inconsistent with this Compact. All Compacting States' laws conflicting with this Compact are superseded to the extent of the conflict.

B. 1. All lawful actions of the Interstate Commission, including all Rules and Bylaws promulgated by the Interstate Commission, are binding upon the Compacting States.

2. All agreements between the Interstate Commission and the Compacting States are binding in accordance with their terms.

3. Upon the request of a party to a conflict over meaning or interpretation of Interstate Commission actions, and upon a majority vote of the Compacting States, the Interstate Commission may issue advisory opinions regarding such meaning or interpretation.

4. In the event any provision of this Compact exceeds the constitutional limits imposed on the legislature of any Compacting State, the obligations, duties, powers, or jurisdiction sought to be

conferred by such provision upon the Interstate Commission shall be ineffective. Such obligations, duties, powers, or jurisdiction shall remain in the Compacting State and shall be exercised by the agency in the state to which such obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective.
Added by Laws 2000, c. 281, § 3, eff. July 1, 2000.

§22-1094. Oklahoma State Council for Interstate Adult Offender Supervision.

A. There is hereby created the Oklahoma State Council for Interstate Adult Offender Supervision in accordance with Article IV of the Interstate Compact for Interstate Adult Offender Supervision. The State Council shall consist of the compact administrator, Executive Coordinator or designee of the District Attorneys Council, Executive Director or designee of the Oklahoma Indigent Defense System and the Administrative Director of the Courts or designee, who shall be nonvoting members and five appointed members who, except for the initial appointments, shall be appointed for three-year terms. The members appointed to initial terms shall serve staggered terms as prescribed in this section. Terms of office shall expire on June 30. Members may be reappointed as deemed appropriate by the appointing authority. Members may be removed by the appointing authority for incompetence, willful neglect of duty, corruption in office, or malfeasance in office. Vacancies shall be filled in the same manner as the original appointment. The members of the Council shall not be subject to the dual office holding prohibitions set forth in Section 6 of Title 51 of the Oklahoma Statutes. The members shall be appointed as follows:

1. One member of the Senate, who shall serve an initial term of three (3) years, who shall be appointed by the President Pro Tempore;

2. One member of the House of Representatives, who shall serve an initial term of three (3) years, who shall be appointed by the Speaker of the House of Representatives;

3. One member of the judiciary who shall be a district judge with experience in criminal proceedings, who shall serve an initial term of two (2) years, to be appointed by the Presiding Judge of the Court of Criminal Appeals;

4. One member of the Pardon and Parole Board, who shall serve an initial term of two (2) years, who shall be appointed by the Governor with the advice and consent of the Senate; and

5. One member who represents a crime victims advocacy group, who shall serve an initial term of one (1) year, to be appointed by the Governor.

B. The members of the State Council shall elect from their membership a chair and vice-chair to serve for one (1) year terms. A majority of the members shall constitute a quorum for the purpose of

conducting the business of the Council. The Council shall meet at least annually and at the call of the chair.

C. The Council shall comply with the Oklahoma Open Meeting Act, the Oklahoma Open Records Act, and the Oklahoma Administrative Procedures Act.

D. Members of the Council, except the compact administrator, shall serve without compensation but shall be reimbursed by their appointing authorities for expenses incurred in the performance of their duties as provided in the State Travel Reimbursement Act until the Council is funded.

E. The Council shall oversee and administer this state's participation in the Compact. The Council may promulgate rules to implement operations and procedures necessary for administration of the compact.

F. Until the Compact becomes effective upon its adoption by thirty-five states, the Council may select a person who is employed by a state agency, subject to the assent of the administrative head of the agency, to serve as the compact administrator. The agency that employs the compact administrator shall pay the salary of the compact administrator and any expenses the compact administrator incurs in fulfilling duties related to the Compact. The Council and the administrative head of the agency shall determine what portion of the employee's time shall be devoted to Compact activities. The compact administrator shall serve as this state's commissioner on the Interstate Commission for Adult Offender Supervision. In the event the compact administrator cannot attend a meeting of the Interstate Commission, the Council shall appoint a Council member to represent this state at the meeting.

Added by Laws 2000, c. 281, § 4, eff. July 1, 2000. Amended by Laws 2008, c. 21, § 1, eff. Nov. 1, 2008.

§22-1095. Compact administrator.

Upon the effectiveness of the Interstate Compact for Interstate Adult Offender Supervision through adoption by thirty-five states, the Council shall employ a compact administrator to oversee the organization and activities of the Council and to administer this state's participation in the Compact, subject to the Council's direction. The compact administrator shall serve as this state's commissioner on the Interstate Commission for Adult Offender Supervision. In the event the compact administrator cannot attend a meeting of the Interstate Commission, the Council shall appoint a Council member to represent this state at the meeting. The salary of the compact administrator shall be set by law. The position of compact administrator shall be an unclassified position.

Added by Laws 2000, c. 281, § 5, eff. July 1, 2000.

NOTE: Laws 2000, c. 281, § 6 states that implementation of Laws 2000, c. 281, § 5 shall be delayed until the Compact becomes effective upon its adoption by thirty-five states.

§22-1101. Offenses bailable - Who may take bail.

A. Except as otherwise provided by law, bail, by sufficient sureties, shall be admitted upon all arrests in criminal cases where the offense is not punishable by death and in such cases it may be taken by any of the persons or courts authorized by law to arrest, to imprison offenders or to perform pretrial services, or by the clerk of the district court or his or her deputy, or by the judge of such courts.

B. In criminal cases where the defendant is currently an escaped prisoner from the Department of Corrections, the defendant must be processed back into the Department of Corrections prior to bail being set on new criminal charges.

C. All persons shall be bailable by sufficient sureties, except that bail may be denied for:

1. Capital offenses when the proof of guilt is evident, or the presumption thereof is great;

2. Violent offenses;

3. Offenses where the maximum sentence may be life imprisonment or life imprisonment without parole;

4. Felony offenses where the person charged with the offense has been convicted of two or more felony offenses arising out of different transactions; and

5. Controlled dangerous substances offenses where the maximum sentence may be at least ten (10) years' imprisonment.

On all offenses specified in paragraphs 2 through 5 of this subsection, the proof of guilt must be evident, or the presumption must be great, and it must be on the grounds that no condition of release would assure the safety of the community or any person.

D. There shall be a rebuttable presumption that no condition of release would assure the safety of the community if the state shows by clear and convincing evidence that the person was arrested for a violation of Section 741 of Title 21 of the Oklahoma Statutes.

R.L. 1910, § 6103. Amended by Laws 2003, c. 82, § 1, emerg. eff. April 15, 2003; Laws 2004, c. 58, § 1, eff. Nov. 1, 2004; Laws 2006, c. 130, § 2, emerg. eff. May 9, 2006.

§22-1101.1. Offenses relating to prostitution bailable.

Bail, by sufficient sureties, may be admitted upon all arrests for violations of Sections 1028, 1029, 1030, or 1081 of Title 21 of the Oklahoma Statutes and shall be in an amount of not less than Fifteen Thousand Dollars ($15,000.00). Bail on personal recognizance bond for such offenses shall not be admitted.

Added by Laws 2002, c. 120, § 4, emerg. eff. April 19, 2002.

§22-1102. Bail when crime is punishable by death.

Bail, by sufficient sureties, may be admitted upon all arrests in criminal cases where the punishment may be death, unless the proof is evident or the presumption great; and in such cases it shall be taken only by the Criminal Court of Appeals or a district or superior court, or by a justice or judge thereof, who shall exercise their discretion therein, having regard to the nature and circumstances of the offense, and of the evidence and to the usages of law; but if the case has been tried by jury, and the jury have disagreed on their verdict, then the above presumption is removed, and the defendant shall thereupon be entitled to bail, unless it shall appear to the court or judge thereof, by due proof, that such disagreement was occasioned by the misconduct of the jury.
R.L.1910, § 6104.

§22-1104. Qualifications of bail - Justification.

The qualifications of bail are the same as those in civil cases, and the sureties must in all cases justify by affidavits taken before the magistrate, court or judge, or before the clerk of the district or superior court or his deputy, that they each possess those qualifications.
R.L.1910, § 6106.

§22-1105. Defendant discharged on giving bail - Exceptions.

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

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

of release as necessary for the protection of the alleged victim, the following:

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

2. The mental health of the person;

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

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

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

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

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

a. the duration of the alleged violent incident,

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

c. whether the alleged violent incident involved sexual assault,

d. whether the alleged violent incident involved strangulation,

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

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

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

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

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

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

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

C. No police officer or sheriff may release a person arrested for any violation of subsection G of Section 2-401 of Title 63 of the Oklahoma Statutes, without the violator appearing before a magistrate, judge, or court. In determining bond and other conditions of release, the magistrate, judge, or court shall consider any evidence that the person is in any manner dependent upon a controlled dangerous substance or has a pattern of regular, illegal use of any controlled dangerous substance. A rebuttable presumption that no conditions of release on bond would assure the safety of the

community or any person therein shall arise if the state shows by clear and convincing evidence:

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

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

R.L.1910, § 6107. Amended by Laws 1995, c. 297, § 4, eff. Nov. 1, 1995; Laws 1997, c. 2, § 25, emerg. eff. Feb. 26, 1997; Laws 1997, c. 368, § 4, eff. Nov. 1, 1997; Laws 2004, c. 59, § 2, emerg. eff. April 6, 2004; Laws 2005, c. 128, § 1, eff. Nov. 1, 2005; Laws 2010, c. 116, § 6, eff. Nov. 1, 2010; Laws 2011, c. 385, § 5, eff. Nov. 1, 2011.

NOTE: Laws 1995, c. 286, § 8 repealed by Laws 1997, c. 2, § 26, emerg. eff. Feb. 26, 1997.

§22-1105.1. Pretrial Release Act - Short title.

This act shall be known and may be cited as the "Pretrial Release Act".

Added by Laws 2002, c. 125, § 1, eff. July 1, 2002.

§22-1105.2. Pretrial Release Act - Setting of bail – Schedule – Electronic monitoring.

A. Following an arrest for a misdemeanor or felony offense and before formal charges have been filed or an indictment made, the arrested person may have bail set by the court as provided in this act; provided there are no provisions of law to the contrary.

B. When formal charges or an indictment has been filed, bail shall be set according to law and the pretrial bond, if any, may be reaffirmed unless additional security is required. Every judicial district may, upon the order of the presiding judge for the district, establish a pretrial bail schedule for felony or misdemeanor offenses, except for traffic offenses included in subsections B, C and D of Section 1115.3 of Title 22 of the Oklahoma Statutes and those offenses specifically excluded herein. The bail schedule established pursuant to the authority of this act shall exclude any offense for which bail is not allowed by law. The bail schedule authorized by this act shall be set in accordance with guidelines relating to bail and shall be published and reviewed by March 1 of

each year by the courts and district attorney of the judicial district.

C. The pretrial bail shall be set in a numerical dollar amount. If the person fails to appear in court as required the judge shall:

1. Rescind the bond and proceed to enter a judgment against the defendant for the dollar amount of the pretrial bail if no private bail was given at the time of release; provided, however, the court clerk shall follow the procedures as set forth in Section 1301 et seq. of Title 59 of the Oklahoma Statutes in collecting the forfeiture amount against the person who fails to appear in court; or

2. Rescind and forfeit the private bail if cash, property or surety bail was furnished at the time of release as set forth in Section 1301 et seq. of Title 59 of the Oklahoma Statutes.

D. When a pretrial program exists in the judicial district where the person is being held, the judge may utilize the services of the pretrial release program when ordering pretrial release, except when private bail has been furnished.

E. Upon an order for pretrial release or release on bond, the person shall be released from custody without undue delay.

F. The court may require the person to be placed on an electronic monitoring device as a condition of pretrial release.

G. In instances where an electronic monitoring device has been ordered, the court may impose payment of a supervision fee. Payment of the fee, in whole or according to a court-ordered installment schedule, shall be a condition of pretrial release. The court clerk shall collect the supervision fees.

Added by Laws 2002, c. 125, § 2, eff. July 1, 2002. Amended by Laws 2002, c. 390, § 13, emerg. eff. June 4, 2002; Laws 2005, c. 74, § 2, eff. Nov. 1, 2005; Laws 2016, c. 59, § 1, eff. Nov. 1, 2016.

§22-1105.3. Pretrial Release Act - Pretrial release programs - Persons eligible - Minimum criteria.

A. Any county pursuant to the provisions of this act may establish and fund a pretrial program to be utilized by the district court in that jurisdiction.

B. When a pretrial release program is established pursuant to this act and private bail has not been furnished, the judge may order a person to be evaluated through the pretrial program. After conducting an evaluation of the person applying for pretrial release, the pretrial program shall make a recommendation to the court. The recommendation shall indicate any special supervisory conditions for pretrial release. The judge shall consider the recommendations and may grant or deny pretrial release. The presiding judge of the judicial district may issue a standing order outlining criteria for cases that may automatically be evaluated for pretrial release by a pretrial program operating in the jurisdiction. The standing order

may include amounts for bail and types of bonds deemed appropriate for certain offenses.

C. Except as otherwise authorized by the provisions of this subsection, persons accused of or detained for any of the following offenses or conditions shall not be eligible for pretrial release by any pretrial program:

1. Aggravated driving under the influence of an intoxicating substance;

2. Any felony driving under the influence of an intoxicating substance;

3. Any offense prohibited by the Trafficking In Illegal Drugs Act;

4. Any person having a violent felony conviction within the past ten (10) years;

5. Appeal bond;

6. Arson in the first degree, including attempts to commit arson in the first degree;

7. Assault and battery on a police officer;

8. Bail jumping;

9. Bribery of a public official;

10. Burglary in the first or second degree;

11. Civil contempt proceedings;

12. Distribution of a controlled dangerous substance, including the sale or possession of a controlled dangerous substance with intent to distribute or conspiracy to distribute;

13. Domestic abuse, domestic assault or domestic assault and battery with a dangerous weapon, or domestic assault and battery with a deadly weapon;

14. Driving under the influence of intoxicating substance where property damage or personal injury occurs;

15. Felony discharging a firearm from a vehicle;

16. Felony sex offenses;

17. Fugitive bond or a governor's fugitive warrant;

18. Immigration charges;

19. Kidnapping;

20. Juvenile or youthful offender detention;

21. Manslaughter;

22. Manufacture of a controlled dangerous substance;

23. Murder in the first degree, including attempts or conspiracy to commit murder in the first degree;

24. Murder in the second degree, including attempts or conspiracy to commit murder in the second degree;

25. Negligent homicide;

26. Out-of-county holds;

27. Persons currently on pretrial release who are arrested on a new felony offense;

28. Possession, manufacture, use, sale or delivery of an explosive device;

29. Possession of a controlled dangerous substance on Schedule I or II of the Controlled Dangerous Substances Act;

30. Possession of a firearm or other offensive weapon during the commission of a felony;

31. Possession of a stolen vehicle;

32. Rape in the first degree, including attempts to commit rape in the first degree;

33. Rape in the second degree, including attempts to commit rape in the second degree;

34. Robbery by force or fear;

35. Robbery with a firearm or dangerous weapon, including attempts to commit robbery with a firearm or dangerous weapon;

36. Sexual assault or violent offenses against children;

37. Shooting with intent to kill;

38. Stalking or violation of a Victim Protection Order;

39. Two or more prior felony convictions; or

40. Unauthorized use of a motor vehicle.

D. A person not eligible for pretrial release pursuant to the provisions of subsection C of this section may be released upon order of a district judge, associate district judge or special judge under conditions prescribed by the judge, which may include an order to require the defendant, as a condition of pretrial release, to use or participate in any monitoring or testing including, but not limited to, a Global Positioning System (GPS) monitoring device and urinalysis testing. The court may further order the defendant to pay costs and expenses related to any supervision, monitoring or testing.

E. Every pretrial services program operating pursuant to the provisions of this act shall meet the following minimum criteria:

1. The program shall establish a procedure for screening and evaluating persons who are detained or have been arrested for the alleged commission of a crime. The program shall obtain criminal history records on detained persons through the National Crime Information Center (NCIC). The information obtained from the screening and evaluation process must be submitted in a written report without unnecessary delay to the judge who is assigned to hear pretrial release applications when the person is eligible for pretrial release;

2. The program shall provide reliable information to the judge relating to the person applying for pretrial release so a reasonable decision can be made concerning the amount and type of bail appropriate for pretrial release. The information provided shall be based upon facts relating to the person's risk of danger to the community and the risk of failure to appear for court; and

3. The program shall make all reasonable attempts to provide the court with information appropriate to each person considered for pretrial release.

F. A pretrial program established pursuant to this act may provide different methods and levels of community-based supervision to meet any court-ordered conditions of release. The program may use existing supervision methods for persons who are released prior to trial. Pretrial programs which employ peace officers certified by the Council on Law Enforcement Education and Training (CLEET) are authorized to enforce court-ordered conditions of release.

G. Each pretrial program established pursuant to this act shall provide a quarterly report to the presiding judge of the judicial district of the jurisdiction in which it operates. A copy of the report shall be filed of record with the court clerk of the jurisdiction. Each report shall include, but is not limited to, the following information:

1. The total number of persons screened, evaluated or otherwise considered for pretrial release;

2. The total number and nature of recommendations made;

3. The number of persons admitted to pretrial release that failed to appear; and

4. Any other information deemed appropriate by the reporting judicial district or that the program desires to report.

H. Every pretrial release program established pursuant to this section shall utilize the services of local providers; provided, however, any program in continuous existence since July 1, 1999, shall be exempt from the provisions of this subsection.

Added by Laws 2002, c. 125, § 3, eff. July 1, 2002. Amended by Laws 2008, c. 114, § 3, eff. Nov. 1, 2008; Laws 2011, c. 385, § 6, eff. Nov. 1, 2011; Laws 2013, c. 77, § 1, eff. Nov. 1, 2013; Laws 2016, c. 59, § 2, eff. Nov. 1, 2016; Laws 2018, c. 2, § 1, emerg. eff. March 8, 2018.

§22-1106. Deposit for bail.

A deposit of the sum of money mentioned in the order admitting to bail is equivalent to bail and upon such deposit the defendant must be discharged from custody.

R.L.1910, § 6108.

§22-1107. Arrest of defendant by bail - Commitment of defendant and exoneration of bail.

Any party charged with a criminal offense and admitted to bail may be arrested by his bail at any time before they are finally discharged, and at any place within the state; or by a written authority indorsed on a certified copy of the recognizance, bond or undertaking, may empower any officer or person of suitable age and discretion, to do so, and he may be surrendered and delivered to the

proper sheriff or other officer, before any court, judge or magistrate having the proper jurisdiction in the case; and at the request of such bail the court, judge or magistrate shall recommit the party so arrested to the custody of the sheriff or other officer, and endorse on the cognizance, bond or undertaking, or certified copy thereof, after notice to the district attorney, and if no cause to the contrary appear, the discharge and exoneration of such bail; and the party so committed shall therefrom be held in custody until discharged by due course of law.
R.L.1910, § 6109.

§22-1108. Forfeiture of bail.

If the defendant neglects to appear according to the terms or conditions of the recognizance, bond or undertaking, either for hearing, arraignment, trial or judgment, or upon any other occasion when his presence in court or before the magistrate may be lawfully required, or to surrender himself in execution of the judgment, the court must direct the fact to be entered upon its minutes, and the recognizance, bond or undertaking of bail, or the money deposited instead of bail, as the case may be, is and shall be thereupon declared forfeited and forfeiture proceedings shall then proceed as prescribed in Section 1332 of Title 59 of the Oklahoma Statutes. If money deposited instead of bail be so forfeited, the clerk of the court or other officer with whom it is deposited, must, immediately after the final adjournment of the court, pay over the money deposited to the county treasurer.

Provided however, if a person charged with a traffic offense neglects to appear for arraignment after signing a written promise to appear as provided for by the State and Municipal Traffic Bail Bond Procedure Act, Section 1115 et seq. of this title and no other form of bail has been substituted therefor, then said recognizance shall not be forfeited as provided in this section and the court shall proceed in accordance with the provisions of Section 1115 et seq. of this title.
Amended by Laws 1988, c. 178, § 4, eff. Nov. 1, 1988; Laws 1989, c. 348, § 16, eff. Nov. 1, 1989.

§22-1108.1. Own recognizance bonds - Requirements for posting - Forfeiture action and collection of forfeiture.

A. Own recognizance bonds set in a penal amount shall be posted by executing an own recognizance indenture contract which shall be executed and maintained by the district court clerk. The indenture shall constitute an inchoate obligation to pay in the event forfeiture proceedings are commenced and result in a final order of forfeiture by the authorizing and issuing judge of the district court.

B. Setting aside of forfeitures shall be governed by the same rules and procedures applicable to cash, property or surety bonds, provided that if the forfeiture is set aside, the district court shall exempt from forfeiture set aside all reasonable costs of recovery to return the defendant to custody, and an administrative fee to be retained by the court fund in a sum not to exceed ten percent (10%) of the total penal bond amount plus all costs incurred in processing the forfeiture proceeding to include costs of notices, warrants, service and execution.

C. The final judgment of forfeiture shall constitute a judgment enforceable through all procedures available for the collection of a civil judgment, provided that the judgment shall be considered a debt in the nature of defalcation as defined by the United States Bankruptcy Code, and shall not be subject to other forms of debtor relief. The judgment shall be subject to collection as costs in the underlying action regardless of final disposition or determination of guilt.

D. The district attorney or the Administrator of the District Court Cost Collection Division as determined by administration order in each judicial district shall initiate the forfeiture action and collection of forfeitures and shall receive one-third (1/3) of all sums collected from the ten percent (10%) premium, not to include costs as defined in subsection B of this section, to offset the costs of administering the program.

E. This section does not apply to traffic or wildlife cases.
Added by Laws 2004, c. 148, § 1, eff. Nov. 1, 2004.

§22-1108.2. Repealed by Laws 2005, c. 190, § 20, eff. Sept. 1, 2005.

§22-1109. Additional security may be required.

When proof is made to any court, judge or other magistrate having authority to commit on criminal charges, that a person previously admitted to bail on any such charge is about to abscond, or that his bail is insufficient, or has removed from the state, the judge or magistrate shall require such person to give better security, or for default thereof cause him to be committed to prison; and an order for his arrest may be endorsed on the former commitment, or a new warrant therefor may be issued by such judge or magistrate, setting forth the cause thereof.
R.L.1910, § 6111.

§22-1110. Jumping bail - Penalties.

Whoever, having been admitted to bail or released on recognizance, bond, or undertaking for appearance before any magistrate or court of the State of Oklahoma, incurs a forfeiture of the bail or violates such undertaking or recognizance and willfully fails to surrender himself within five (5) days following the date of

such forfeiture shall, if the bail was given or undertaking or recognizance extended in connection with a charge of felony or pending appeal or certiorari after conviction of any such offense, be guilty of a felony and shall be fined not more than One Thousand Dollars ($1,000.00) or imprisoned not more than one (1) year, or both. Nothing in this section shall be construed to interfere with or prevent the exercise by any court of its power to punish for contempt.
Added by Laws 1965, c. 373, § 1, emerg. eff. June 28, 1965. Amended by Laws 1997, c. 133, § 437, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 321, eff. July 1, 1999.
NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 437 from July 1, 1998, to July 1, 1999.

§22-1111. Bail for violating water safety law, Wildlife Conservation Code or other bail laws - Deposit of operator's license in lieu of bail.

A. Any person arrested by a law enforcement officer for any violation of any statute relating to water safety or for any misdemeanor violation of the Oklahoma Wildlife Conservation Code, in addition to other provisions of law for posting bail, shall be admitted to bail as follows:

1. By posting cash bail, of an amount as prescribed by the schedule prepared pursuant to subsection E of Section 1115.3 of this title, in an envelope addressed to the court clerk of the district court of the appropriate jurisdiction. The defendant, in the presence of the arresting officer, shall deposit the envelope containing the citation, on which the date of the hearing has been indicated by the arresting officer, and the bail bond for the appearance at such time and place, in the United States mail. The arresting officer shall furnish a receipt to the person. For the purpose of this section, cashier's checks, postal money orders, instruments commonly known as traveler's checks, certified checks, and personal checks shall be considered as cash. Any person who does not post a cash bail shall deposit with the arresting officer a valid license to operate a motor vehicle; provided that an out-of-state arrestee posting cash by personal check shall deposit with the arresting officer a valid license to operate a motor vehicle as provided in subsection B of this section, except the receipt shall cease to operate as a driver license if the personal check is not honored after the last presentment. The court clerk shall supply the office of the sheriff, the Department of Public Safety and the Oklahoma Department of Wildlife Conservation with postage paid preaddressed envelopes. The cost of the envelopes and postage shall be paid from the court fund; or

2. By depositing with the arresting officer a valid license to operate a motor vehicle, in exchange for an official receipt issued

by the arresting officer. The driver license and citation shall be transmitted by the arresting officer to the clerk of the court having jurisdiction over the offense.

B. Application for a replacement driver license during the period when the original license is posted in lieu of cash bail shall be a misdemeanor and upon conviction shall be punished by a fine of not more than Five Hundred Dollars ($500.00) or by imprisonment for not less than seven (7) days nor more than six (6) months, or by both such fine and imprisonment. Provided, that notice of the fine and punishment shall be printed on the receipt issued for deposit of a driver license in lieu of cash bail. The receipt for posting bail by depositing a valid driver license shall be on forms approved by the Commissioner of Public Safety. The receipt shall be recognized as a driver license and shall authorize the operation of a motor vehicle until the date of arraignment but not exceeding twenty (20) days. Added by Laws 1968, c. 115, § 1, eff. Jan. 13, 1969. Amended by Laws 1970, c. 64, § 1, emerg. eff. March 16, 1970; Laws 1980, c. 248, § 1, eff. Oct. 1, 1980; Laws 2005, c. 190, § 3, eff. Sept. 1, 2005.

§22-1111.1. Return of operator's license.

The court clerk shall return an operator's license deposited in lieu of cash bail, as provided by Section 1111 of this title, to the defendant upon the following:

(a) acceptance of the defendant's personal check for cash bail and collection of funds;

(b) appearance to answer the charge or to post bond; or

(c) election to enter a plea of guilty by transmitting to the court clerk the cash bail as provided by Section 1112 of this title. Laws 1980, c. 248, § 2, eff. Oct. 1, 1980.

§22-1111.2. Failure to appear for arraignment.

The arresting officer shall indicate on the citation the date of the arraignment, and the defendant shall appear in person or by counsel at the stated time and place for arraignment. If the defendant fails to appear in court in person or by counsel for arraignment on the charge against him, or fails to arrange with the court within the time designated on the citation for a future appearance, the cash bail, if cash bail has been deposited by the defendant, shall be forfeited. If a license to operate a motor vehicle has been deposited under subsection (b) of Section 1111 of this title, the court clerk shall immediately forward to the Department of Public Safety the operator's license attached to an official notification form furnished by the Department of Public Safety, advising that the defendant failed to appear; in addition, on motion of the district attorney, the court shall issue a bench warrant for the arrest of the defendant. If a license has been deposited under subsection (a) of Section 1111 of this title and the

out-of-state defendant's personal check is not honored, the court clerk shall immediately forward to the Department of Public Safety the license stating that the check has not been honored. If bail has been forfeited, on motion of the district attorney, the court shall issue a bench warrant. Provided, however, that bail forfeiture shall not be construed as a plea of guilty or admission in any civil action that may thereafter arise by reason of said occurrence.
Laws 1980, c. 248, § 3, eff. Oct. 1, 1980.

§22-1112. Repealed by Laws 1990, c. 142, § 3, operative July 1, 1990.

§22-1113. Plea of guilty.

The person so charged who elects to plead guilty may indicate his plea of guilty on the ticket or warrant; and said bond deposit shall be used for payment of fine and costs, which fine and costs shall not exceed the amount of bond.
Laws 1968, c. 115, § 3; Laws 1970, c. 64, § 2, emerg. eff. March 16, 1970.

§22-1114.3. Traffic citation - Delivery of complaint information and abstract of court record - Citation as information.

A. Upon issuing a traffic citation required to be filed in district court, the arresting officer or the law enforcement agency employing the arresting officer shall deliver or forward the "Complaint Information" and "Abstract of Court Record" parts of the citation, in electronic or written format:

1. To the district court clerk without the endorsement of the district attorney or an assistant district attorney. It shall be the duty of the district court clerk to deliver the "Complaint Information" to the district attorney who shall endorse or decline and file the "Complaint Information" with the district court clerk; or

2. If the officer has issued a citation which could result in the district attorney filing an information, to the district attorney who shall endorse or decline and file both parts of the citation with the district court clerk.

B. Upon receipt of a traffic citation by the district court clerk, the district court clerk shall deliver the original "Complaint Information" to the district attorney. The district court clerk's office shall maintain the "Abstract of Court Record" part of the citation until the final disposition of the case.

C. After final disposition of the case by the district attorney, including a case which is declined, the district court clerk shall clearly mark the "Abstract of Court Record" part of the citation with the disposition information of the case and forward the "Abstract of Court Record" to the Department of Public Safety, as provided in

Section 18-101 of Title 47 of the Oklahoma Statutes. The "Abstract of Court Record" copy of the citation shall not be obscured by any official stamp of the district court or the district court clerk's office.

D. Forwarding of the "Abstract of Court Record" copy of a citation by electronic means to the Department of Public Safety shall be in a manner and format as approved by the Department, and shall include the information required by Section 18-101 of Title 47 of the Oklahoma Statutes.

E. A traffic citation that is certified by the arresting officer, the complainant, the district attorney, or the assistant district attorney shall constitute an information against the person arrested and served with the traffic citation.

F. For purposes of this section, "endorsement by the district attorney" and "filing with the court clerk" may be accomplished by electronic means using any method approved for electronic filing in the courts of this state. Both the "Complaint Information" and "Abstract of Court Record" parts of the citation may be forwarded to, and provided by, the district court clerk in an electronic form. Neither a paper copy of the citation, nor an original "wet ink" endorsement or signature shall be required from any party when using an approved electronic method.

Added by Laws 1968, c. 185, § 3, eff. Jan. 13, 1969. Amended by Laws 1968, c. 383, § 4, eff. Jan. 13, 1969; Laws 1969, c. 276, § 2, emerg. eff. April 25, 1969; Laws 1991, c. 238, § 35, eff. July 1, 1991; Laws 2000, c. 159, § 3, emerg. eff. April 28, 2000; Laws 2006, c. 204, § 1, eff. Nov. 1, 2006; Laws 2012, c. 278, § 4, eff. Nov. 1, 2012.

§22-1114.3A. Citations - Delivery of Complaint Information and Abstract of Court Record.

A. Upon issuing a citation other than a traffic citation as provided for in Section 1114.3 of this title, that is required to be filed in district court, the arresting Highway Patrol officer or the Department of Public Safety shall deliver or forward the "Complaint Information" or "Abstract of Court Record" of the citation, in electronic or written format:

1. To the district court clerk without the endorsement of the district attorney or an assistant district attorney. It shall be the duty of the district court clerk to deliver the "Complaint Information" to the district attorney who shall endorse or decline and file the "Complaint Information" with the district court clerk; or

2. To the district attorney, if the Highway Patrol officer has issued a citation which could result in the district attorney filing an information. The district attorney shall endorse or decline and file both parts of the citation with the district court clerk.

B. Upon receipt of a citation by the district court clerk, the district court clerk shall deliver the original "Complaint Information" to the district attorney. The district court clerk's office shall maintain the "Abstract of Court Record" part of the citation until the final disposition of the case.

C. After final disposition of the case by the district attorney, including a case which is declined, the district court clerk shall clearly mark the "Abstract of Court Record" part of the citation with the disposition information of the case and forward the "Abstract of Court Record" to the Department of Public Safety, in the same manner as for a traffic citation as prescribed in Section 18-101 of Title 47 of the Oklahoma Statutes. The "Abstract of Court Record" part of the citation shall not be obscured by any official stamp of the district court or the district court clerk's office.

D. Forwarding of the "Abstract of Court Record" part of a citation by electronic means to the Department of Public Safety shall be allowable in a manner and format approved by the Department.

E. A citation that is certified by the arresting Highway Patrol officer, the district attorney or an assistant district attorney shall constitute an information against the person arrested and served with a citation.

F. For purposes of this section, "endorsement by the district attorney" and "filing with the court clerk" may be accomplished by electronic means using any method approved for electronic filing in the courts of this state. Both the "Complaint Information" and "Abstract of Court Record" parts of the citation may be forwarded to, and provided by, the district court clerk in an electronic form. Neither a paper copy of the citation, nor an original "wet ink" endorsement or signature shall be required from any party when using an approved electronic method.

Added by Laws 2003, c. 461, § 2, eff. July 1, 2003. Amended by Laws 2006, c. 204, § 2, eff. Nov. 1, 2006; Laws 2012, c. 278, § 5, eff. Nov. 1, 2012.

§22-1115. Short title - Application.

Sections 1115 through 1115.5 of this title shall be known and may be cited as the "State and Municipal Traffic, Water Safety, and Wildlife Bail Bond Procedure Act". The provisions of the State and Municipal Traffic, Water Safety, and Wildlife Bail Bond Procedure Act shall not apply to parking or standing traffic violations.

Added by Laws 1986, c. 250, § 1, operative July 1, 1987. Amended by Laws 2005, c. 190, § 4, eff. Sept. 1, 2005.

§22-1115.1. Release on personal recognizance - Arraignment - Plea - Failure to plead or appear.

A. In addition to other provisions of law for posting bail, any person, whether a resident of this state or a nonresident, who is

arrested by a law enforcement officer solely for a misdemeanor violation of a state traffic law or municipal traffic ordinance, shall be released by the arresting officer upon personal recognizance if:

1. The arrested person has been issued a valid license to operate a motor vehicle by this state, another state jurisdiction within the United States, which is a participant in the Nonresident Violator Compact or any party jurisdiction of the Nonresident Violator Compact;

2. The arresting officer is satisfied as to the identity of the arrested person;

3. The arrested person signs a written promise to appear as provided for on the citation, unless the person is unconscious or injured and requires immediate medical treatment as determined by a treating physician; and

4. The violation does not constitute:

a. a felony, or

b. negligent homicide, or

c. driving or being in actual physical control of a motor vehicle while impaired or under the influence of alcohol or other intoxicating substances, unless the person is unconscious or injured and requires immediate medical treatment as determined by a treating physician, or

d. eluding or attempting to elude a law enforcement officer, or

e. operating a motor vehicle without having been issued a valid driver license, or while the driving privilege and driver license is under suspension, revocation, denial or cancellation, or

f. an arrest based upon an outstanding warrant, or

g. a traffic violation coupled with any offense stated in subparagraphs a through f of this paragraph.

B. If the arrested person is eligible for release on personal recognizance as provided for in subsection A of this section, then the arresting officer shall:

1. Designate the traffic charge;

2. Record information from the arrested person's driver license on the citation form, including the name, address, date of birth, personal description, type of driver license, driver license number, issuing state, and expiration date;

3. Record the motor vehicle make, model and tag information;

4. Record the date and time on the citation on which, or before which, the arrested person promises to contact, pay, or appear at the court, as applicable to the court; and

5. Permit the arrested person to sign a written promise to contact, pay, or appear at the court, as provided for in the citation.

The arresting officer shall then release the person upon personal recognizance based upon the signed promise to appear. The citation shall contain a written notice to the arrested person that release upon personal recognizance based upon a signed written promise to appear for arraignment is conditional and that failure to timely appear for arraignment shall result in the suspension of the arrested person's driving privilege and driver license in this state, or in the nonresident's home state pursuant to the Nonresident Violator Compact.

C. The court, or the court clerk as directed by the court, may continue or reschedule the date and time of arraignment upon request of the arrested person or the attorney for that person. If the arraignment is continued or rescheduled, the arrested person shall remain on personal recognizance and written promise to appear until such arraignment, in the same manner and with the same consequences as if the continued or rescheduled arraignment was entered on the citation by the arresting officer and signed by the defendant. An arraignment may be continued or rescheduled more than one time. Provided, however, the court shall require an arraignment to be had within a reasonable time. It shall remain the duty of the defendant to appear for arraignment unless the citation is satisfied as provided for in subsection D of this section.

D. A defendant released upon personal recognizance may elect to enter a plea of guilty or nolo contendere to the violation charged at any time before the defendant is required to appear for arraignment by indicating such plea on the copy of the citation furnished to the defendant or on a legible copy thereof, together with the date of the plea and signature. The defendant shall be responsible for assuring full payment of the fine and costs to the appropriate court clerk. Payment of the fine and costs may be made by personal, cashier's, traveler's, certified or guaranteed bank check, postal or commercial money order, or other form of payment approved by the court in an amount prescribed as bail for the offense. Provided, however, the defendant shall not use currency for payment by mail. If the defendant has entered a plea of guilty or nolo contendere as provided for in this subsection, such plea shall be accepted by the court and the amount of the fine and costs shall be:

1. As prescribed in Section 1115.3 of this title as bail for the violation; or

2. In case of a municipal violation, as prescribed by municipal ordinance for the violation charged; or

3. In the absence of such law or ordinance, then as prescribed by the court.

E. 1. If, pursuant to the provisions of subsection D of this section, the defendant does not timely elect to enter a plea of guilty or nolo contendere and fails to timely appear for arraignment, the court may issue a warrant for the arrest of the defendant and the municipal or district court clerk, within one hundred twenty (120) calendar days from the date the citation was issued by the arresting officer, shall notify the Department of Public Safety that:

a. the defendant was issued a traffic citation and released upon personal recognizance after signing a written promise to appear for arraignment as provided for in the citation,

b. the defendant has failed to appear for arraignment without good cause shown,

c. the defendant has not posted bail, paid a fine, or made any other arrangement with the court to satisfy the citation, and

d. the citation has not been satisfied as provided by law.

Additionally, the court clerk shall request the Department of Public Safety to either suspend the defendant's driving privilege and driver license to operate a motor vehicle in this state, or notify the defendant's home state and request suspension of the defendant's driving privilege and driver license in accordance with the provisions of the Nonresident Violator Compact. Such notice and request shall be on a form approved or furnished by the Department of Public Safety.

2. The court clerk shall not process the notification and request provided for in paragraph 1 of this subsection if, with respect to such charges:

a. the defendant was arraigned, posted bail, paid a fine, was jailed, or otherwise settled the case, or

b. the defendant was not released upon personal recognizance upon a signed written promise to appear as provided for in this section or if released, was not permitted to remain on such personal recognizance for arraignment, or

c. the violation relates to parking or standing, or

d. a period of one hundred twenty (120) calendar days or more has elapsed from the date the citation was issued by the arresting officer.

F. Following receipt of the notice and request from the court clerk for driving privilege and driver license suspension as provided for in subsection E of this section, the Department of Public Safety shall proceed as provided for in Section 1115.5 of this title.

G. The municipal or district court clerk shall maintain a record of each request for driving privilege and driver license suspension submitted to the Department of Public Safety pursuant to the provisions of this section. When the court or court clerk receives

appropriate bail or payment of the fine and costs, settles the citation, makes other arrangements with the defendant, or otherwise closes the case, the court clerk shall furnish proof thereof to such defendant, if the defendant personally appears, or shall mail such proof by first class mail, postage prepaid, to the defendant at the address noted on the citation or at such other address as is furnished by the defendant. Additionally, the court or court clerk shall notify the home jurisdiction of the defendant as listed on the citation, if such jurisdiction is a member of the Nonresident Violator Compact, and shall, in all other cases, notify the Department, of the resolution of the case. The form of proof and the procedures for notification shall be approved by the Department of Public Safety. Provided, however, the court or court clerk's failure to furnish such proof or notice in the manner provided for in this subsection shall in no event create any civil liability upon the court, the court clerk, the State of Oklahoma or any political subdivision thereof, or any state department or agency or any employee thereof but duplicate proof shall be furnished to the person entitled thereto upon request.
Added by Laws 1986, c. 250, § 2, operative July 1, 1987. Amended by Laws 1990, c. 203, § 1, emerg. eff. May 10, 1990; Laws 1995, c. 193, § 4, eff. July 1, 1995; Laws 1995, c. 313, § 9, eff. July 1, 1995; Laws 1997, c. 193, § 4, eff. Nov. 1, 1997; Laws 2006, c. 204, § 3, eff. Nov. 1, 2006.

§22-1115.1A. Release on personal recognizance for traffic violation – Arraignment – Plea – Failure to plead or appear.

A. In addition to other provisions of law for posting bail, any person, whether a resident of this state or a nonresident, who is arrested by a law enforcement officer solely for a misdemeanor violation of a state traffic law or municipal traffic ordinance, shall be released by the arresting officer upon personal recognizance if:

1. The arrested person has been issued a valid license to operate a motor vehicle by this state, another state jurisdiction within the United States, which is a participant in the Nonresident Violator Compact or any party jurisdiction of the Nonresident Violator Compact;

2. The arresting officer is satisfied as to the identity of the arrested person and certifies the date and time and the location of the violation, as evidence by the electronic signature of the officer;

3. The arrested person acknowledges, as evidenced by the electronic signature of the person, a written promise to appear as provided for on the citation, unless the person is unconscious or injured and requires immediate medical treatment as determined by a treating physician; and

4. The violation does not constitute:
    a. a felony,
    b. negligent homicide,
    c. driving or being in actual physical control of a motor vehicle while impaired or under the influence of alcohol or other intoxicating substances, unless the person is unconscious or injured and requires immediate medical treatment as determined by a treating physician,
    d. eluding or attempting to elude a law enforcement officer,
    e. operating a motor vehicle without having been issued a valid driver license or while the driving privilege and driver license is under suspension, revocation, denial or cancellation,
    f. an arrest based upon an outstanding warrant, or
    g. a traffic violation coupled with any offense stated in subparagraphs a through f of this paragraph.

B. If the arrested person is eligible for release on personal recognizance as provided for in subsection A of this section, then the arresting officer shall on the citation:

1. Designate the traffic charge;

2. Record information from the driver license of the arrested person on the citation form, including the name, address, date of birth, physical description, type of driver license, driver license number, issuing state, and expiration date;

3. Record the motor vehicle make, model and tag information;

4. Record the date and time on which, or before which, the arrested person promises, as evidenced by the electronic signature of the person, to contact, pay, or appear at the court, as applicable to the court;

5. Record the electronic signature of the arrested person which shall serve as evidence and acknowledgment of a promise to contact, pay, or appear at the court, as provided for in the citation; and

6. Record the electronic signature of the arrested person which shall serve as evidence to certify the date and time and the location that the arrested person was served with a copy of the citation and notice to appear,

after which, the arresting officer shall then release the person upon personal recognizance based upon the acknowledged promise to appear. The citation shall contain a written notice to the arrested person that release upon personal recognizance based upon an acknowledged promise to appear, as evidenced by the electronic signature of the person, for arraignment is conditional and that failure to timely appear for arraignment shall result in the suspension of the driving privilege and driver license of the arrested person in this state, or

in the home state of the nonresident pursuant to the Nonresident Violator Compact.

C. The court, or the court clerk as directed by the court, may continue or reschedule the date and time of arraignment at the discretion of the court or upon request of the arrested person or the attorney for that person. If the arraignment is continued or rescheduled, the arrested person shall remain on personal recognizance and acknowledged promise to appear until such arraignment, in the same manner and with the same consequences as if the continued or rescheduled arraignment was entered on the citation by the arresting officer and electronically signed by the defendant. An arraignment may be continued or rescheduled more than one time. Provided, however, the court shall require an arraignment to be had within a reasonable time. It shall remain the duty of the defendant to appear for arraignment unless the citation is satisfied as provided for in subsection D of this section.

D. A defendant released upon personal recognizance may elect to enter a plea of guilty or nolo contendere to the violation charged at any time before the defendant is required to appear for arraignment by indicating such plea on the copy of the citation furnished to the defendant or on a legible copy, together with the date of the plea and signature of the defendant, or such plea may be entered by the defendant using an electronic method provided by the court for such purposes, either through the website of the court or otherwise. The defendant shall be responsible for assuring full payment of the fine and costs to the appropriate court clerk. Payment of the fine and costs may be made by personal, cashier's, traveler's, certified or guaranteed bank check, postal or commercial money order, or other form of payment approved by the court in an amount prescribed as bail for the offense. Provided, however, the defendant shall not use currency for payment by mail. If the defendant has entered a plea of guilty or nolo contendere as provided for in this subsection, such plea shall be accepted by the court and the amount of the fine and costs shall be:

1. As prescribed in Section 1115.3 of this title as bail for the violation;

2. In case of a municipal violation, as prescribed by municipal ordinance for the violation charged; or

3. In the absence of such law or ordinance, then as prescribed by the court.

E. 1. If, pursuant to the provisions of subsection D of this section, the defendant does not timely elect to enter a plea of guilty or nolo contendere and fails to timely appear for arraignment, the court may issue a warrant for the arrest of the defendant. The municipal or district court clerk, within one hundred twenty (120) calendar days from the date the citation was issued by the arresting officer, shall notify the Department of Public Safety that:

a. the defendant was issued a traffic citation and released upon personal recognizance after acknowledging a written promise to appear for arraignment as provided for in the citation,
b. the defendant has failed to appear for arraignment without good cause shown,
c. the defendant has not posted bail, paid a fine, or made any other arrangement with the court to satisfy the citation, and
d. the citation has not been satisfied as provided by law.

Additionally, the court clerk shall request the Department of Public Safety to either suspend the driving privilege and driver license of the defendant to operate a motor vehicle in this state, or notify the home state of the defendant and request suspension of the driving privilege and driver license of the defendant in accordance with the provisions of the Nonresident Violator Compact. The notice and request shall be on a form approved or furnished by the Department of Public Safety.

2. The court clerk shall not process the notification and request provided for in paragraph 1 of this subsection if, with respect to such charges:

a. the defendant was arraigned, posted bail, paid a fine, was jailed, or otherwise settled the case,
b. the defendant was not released upon personal recognizance upon an acknowledged written promise to appear as provided for in this section or if released, was not permitted to remain on such personal recognizance for arraignment,
c. the violation relates to parking or standing, or
d. a period of one hundred twenty (120) calendar days or more has elapsed from the date the citation was issued by the arresting officer.

F. Following receipt of the notice and request from the court clerk for driving privilege and driver license suspension as provided for in subsection E of this section, the Department of Public Safety shall proceed as provided for in Section 1115.5 of this title.

G. The municipal or district court clerk shall maintain a record of each request for driving privilege and driver license suspension submitted to the Department of Public Safety pursuant to the provisions of this section. When the court or court clerk receives appropriate bail or payment of the fine and costs, settles the citation, makes other arrangements with the defendant, or otherwise closes the case, the court clerk shall furnish proof thereof to the defendant, if the defendant personally appears, or shall mail such proof by first-class mail, postage prepaid, to the defendant at the address noted on the citation or at such other address as is furnished by the defendant or by e-mail if the defendant has

furnished an e-mail address for such purposes. Additionally, the court or court clerk shall notify the home jurisdiction of the defendant as listed on the citation, if such jurisdiction is a member of the Nonresident Violator Compact, and shall, in all other cases, notify the Department of the resolution of the case. The form of proof and the procedures for notification shall be approved by the Department of Public Safety. Provided however, failure by the court or court clerk to furnish such proof or notice in the manner provided for in this subsection shall in no event create any civil liability upon the court, the court clerk, the State of Oklahoma or any political subdivision thereof, or any state department or agency or any employee thereof but duplicate proof shall be furnished to the person entitled to such proof or notice upon request.

H. For purposes of this section, "electronic signature" shall have the same meaning as defined in Section 15-102 of Title 12A of the Oklahoma Statutes.

Added by Laws 2009, c. 84, § 1, eff. Nov. 1, 2009. Amended by Laws 2013, c. 13, § 1, eff. Nov. 1, 2013; Laws 2013, c. 61, § 1, eff. Nov. 1, 2013.

§22-1115.2. Posting bail after release on personal recognizance for traffic violation - Failure to appear - Person ineligible for release on personal recognizance - Juveniles.

A. If a person arrested for a traffic violation is released upon personal recognizance as provided for in Section 1115.1 of this title, but subsequently posts bail and thereafter fails to timely appear as provided for by law, the court may issue a warrant for the person's arrest and the case shall be processed as follows:

1. If for a state traffic violation, as provided for in Section 1108 of this title; or

2. If for a violation filed in a municipal court not of record, as provided for in Section 27-118 of Title 11 of the Oklahoma Statutes; or

3. If for a violation filed in a municipal court of record, as provided for in Section 28-127 of Title 11 of the Oklahoma Statutes.

B. If the defendant is not eligible for release upon personal recognizance as provided for in Section 1115.1 of this title, or if eligible but refuses to sign a written promise to appear, the officer shall deliver the person to an appropriate magistrate for arraignment and the magistrate shall proceed as otherwise provided for by law. If no magistrate is available, the defendant shall be placed in the custody of the appropriate municipal or county jailor or custodian, to be held until a magistrate is available or bail is posted as provided for in Section 1115.3 of this title or as otherwise provided for by law or ordinance.

C. 1. Notwithstanding any other provision of law, a juvenile may be held in custody pursuant to the provisions of this section,

but shall be incarcerated separately from any adult offender. Provided however, the arresting officer shall not be required to:

a. place a juvenile into custody as provided for in this section, or

b. place any other traffic offender into custody:

(1) who is injured, disabled, or otherwise incapacitated, or

(2) if custodial arrest may require impoundment of a vehicle containing livestock, perishable cargo, or items requiring special maintenance or care, or

(3) if extraordinary circumstances exist, which, in the judgment of the arresting officer, custodial arrest should not be made.

In such cases, the arresting officer may designate the date and time on the citation by which, or on which, the person shall appear or contact the court, as applicable to the court, and release the person. If the person fails to appear without good cause shown, the court may issue a warrant for the person's arrest.

2. The provisions of this subsection shall not be construed to:

a. create any duty on the part of the officer to release a person from custody, or

b. create any duty on the part of the officer to make any inquiry or investigation relating to any condition which may justify release under this subsection, or

c. create any liability upon any officer, or the state or any political subdivision thereof, arising from the decision to release or not to release such person from custody pursuant to the provisions of this subsection.

Added by Laws 1986, c. 250, § 3, operative July 1, 1987. Amended by Laws 2006, c. 204, § 4, eff. Nov. 1, 2006.

§22-1115.2B. Posting bail after release on personal recognizance for traffic violation – Failure to appear – Person ineligible for release on personal recognizance - Juveniles.

A. If a person arrested for a traffic violation is released upon personal recognizance as provided for in Section 1 of this act, but subsequently posts bail and thereafter fails to timely appear as provided for by law, the court may issue a warrant for the arrest of the person and the case shall be processed as follows:

1. If for a state traffic violation, as provided for in Section 1108 of Title 22 of the Oklahoma Statutes;

2. If for a violation filed in a municipal court not of record, as provided for in Section 27-118 of Title 11 of the Oklahoma Statutes; or

3. If for a violation filed in a municipal court of record, as provided for in Section 28-127 of Title 11 of the Oklahoma Statutes.

B. If the defendant is not eligible for release upon personal recognizance as provided for in Section 1 of this act, or if eligible but refuses to acknowledge a written promise to appear, as evidenced by the electronic signature of the person, the officer shall deliver the person to an appropriate magistrate for arraignment and the magistrate shall proceed as otherwise provided for by law. If no magistrate is available, the defendant shall be:

1. Placed in the custody of the appropriate municipal or county jailor or custodian, to be held until a magistrate is available or bail is posted as provided for in Section 1115.4 of Title 22 of the Oklahoma Statutes;

2. Released upon personal recognizance by the arresting officer as provided in subsection A of Section 1 of this act; or

3. Processed as otherwise provided for by law or ordinance.

C. 1. Notwithstanding any other provision of law, a juvenile may be held in custody pursuant to the provisions of this section, but shall be incarcerated separately from any adult offender. Provided however, the arresting officer shall not be required to:

a. place a juvenile into custody as provided for in this section,

b. place any other traffic offender into custody:

(1) who is injured, disabled, or otherwise incapacitated,

(2) if custodial arrest may require impoundment of a vehicle containing livestock, perishable cargo, or items requiring special maintenance or care, or

(3) if extraordinary circumstances exist, which, in the judgment of the arresting officer, custodial arrest should not be made.

In such cases, the arresting officer may record the date and time on the citation by which, or on which, the person shall appear or contact the court, as applicable to the court, and release the person. If the person fails to appear without good cause shown, the court may issue a warrant for the arrest of the person.

2. The provisions of this subsection shall not be construed to:

a. create any duty on the part of the officer to release a person from custody,

b. create any duty on the part of the officer to make any inquiry or investigation relating to any condition which may justify release under this subsection, or

c. create any liability upon any officer, or the state or any political subdivision thereof, arising from the decision to release or not to release such person from custody pursuant to the provisions of this subsection.

Added by Laws 2009, c. 84, § 2, eff. Nov. 1, 2009.

§22-1115.3. State traffic-related offenses - State wildlife-related or water safety-related offenses - Bail.

A. The court shall prescribe the amount of bail for the following state traffic-related offenses:

1. Any felony;

2. Negligent homicide;

3. Driving or being in actual physical control of a motor vehicle while impaired by or under the influence of alcohol or other intoxicating substances;

4. Eluding or attempting to elude a law enforcement officer;

5. Driving while license is under suspension, revocation, denial or cancellation;

6. Failure to stop or remain at the scene of an accident; and

7. Any other traffic violation for which a defendant is delivered to the judge of the court as magistrate pursuant to the provisions of Section 1115.2 of this title, or other law.

B. The amount of bail for an overweight offense shall be the amount of fine and costs, including any penalty assessment provided for in the Oklahoma Statutes and the fees provided for in Sections 1313.2, 1313.3, 1313.4 and 1313.5 of Title 20 of the Oklahoma Statutes.

C. The amount of bail for other state traffic-related offenses shall be the amount of fine and costs including any penalty assessments provided for in the Oklahoma Statutes and the fees provided for in Sections 1313.2, 1313.3, 1313.4 and 1313.5 of Title 20 of the Oklahoma Statutes.

D. The amount of bail for a state wildlife-related or water safety-related offense shall be the amount of fine and costs including any penalty assessment provided for in the Oklahoma Statutes and the fees provided for in Sections 1313.2, 1313.3, 1313.4 and 1313.5 of Title 20 of the Oklahoma Statutes.

E. On or before September 1 of each year, the Administrative Office of the Courts shall prepare a schedule of amounts to be received as bail for each offense pursuant to subsections A, B, C and D of this section and shall distribute the schedule to the Department of Public Safety, each district court clerk in this state and to other interested parties upon request.

F. The district court clerk, unless otherwise directed by the court, shall accept bail or the payment of a fine and costs in the form of currency or personal, cashier's, traveler's, certified or guaranteed bank check, or postal or commercial money order for the amount prescribed in this section for bail.

G. The district court clerk shall accept as bail a guaranteed arrest bond certificate issued by a surety company, an automobile club or trucking association, if:

1. The issuer is authorized to do business in this state by the State Insurance Commissioner;

2. The certificate is issued to and signed by the arrested person;

3. The certificate contains a printed statement that appearance of such person is guaranteed and the issuer, in the event of failure of such person to appear in court at the time of trial, will pay any fine or forfeiture imposed; and

4. The limit provided on the certificate equals or exceeds the amount of bail provided for in this section.

Added by Laws 1986, c. 250, § 4, operative July 1, 1987. Amended by Laws 1987, c. 181, § 8, eff. July 1, 1987; Laws 1989, c. 33, § 1, emerg. eff. April 4, 1989; Laws 1990, c. 142, § 2, operative July 1, 1990; Laws 1990, c. 282, § 2, operative July 1, 1990; Laws 2006, c. 204, § 5, eff. Nov. 1, 2006.

§22-1115.4. Court clerk not liable on dishonored check - Bench warrant and arrest of issuer.

A. In any case where a municipal court clerk or district court clerk accepts any personal check or other form of a negotiable instrument from the arrestee or from any person acting for or on his behalf in payment of a fine or as bail for his appearance for arraignment, trial or a hearing, and said check or instrument proves to be on a closed account or is insufficient, false, bogus, a forgery, or otherwise dishonored for any reason, the court clerk shall not be civilly liable personally, or upon his official bond for the amount of such instrument or for the amount of the fine imposed in the case, or criminally liable therefor.

B. A personal check or other instrument tendered to a municipal court clerk or district court clerk for bail or for the payment of fine and costs, if dishonored and returned to said clerk for any reason other than the lack of proper endorsement, shall constitute nonpayment of bail or fine, as the case may be, and the court, in addition to any civil or criminal remedy otherwise provided for by law, may issue a bench warrant for the arrest of the person named on the citation to require his appearance on the charge specified.

Added by Laws 1986, c. 250, § 5, operative July 1, 1987.

§22-1115.5. Department of Public Safety - Power and duties relative to suspension of driving privilege.

A. 1. Following receipt of notification and a request for driving privilege suspension from a municipal or district court clerk as provided for in Section 1115.1 of this title or Section 1 of this act, the Department of Public Safety shall:

a. suspend the privilege of the person to operate a motor vehicle in this state; or

b. request suspension of the driving privilege of the person in the state which issued the license as provided by the Nonresident Violator Compact.

A person whose license is subject to suspension pursuant to this section may avoid the effective date of the suspension or, if suspended, shall be eligible for reinstatement, if otherwise eligible, upon meeting the requirements of subsection C of this section.

2. The Department of Public Safety may decline to initiate such suspension action if the request is discovered to be improper or questionable.

3. The Department shall not be required to issue more than one suspension of the driving privilege of a person in the event multiple requests for suspensions are received from a court clerk based upon the failure of the person to appear at a particular time and date on multiple charges.

B. Following receipt of a request from another jurisdiction for the suspension of the driving privilege of an Oklahoma resident as provided by the Nonresident Violator Compact, the Department of Public Safety, if the request appears to be valid, shall initiate suspension of the privilege of the person to operate a motor vehicle in this state. If suspended, such suspension shall remain in effect until the person meets the requirements of subsection C of this section.

C. 1. A person whose license is subject to suspension in this state pursuant to the provisions of this section may avoid the effective date of suspension, or if suspended in this state, shall be eligible for reinstatement, if otherwise eligible, upon:

a. making application therefore to the Department of Public Safety, and

b. showing proof from the court or court clerk that the person has entered an appearance in the case which was the basis for the suspension action and was released by the court as provided for by the Nonresident Violator Compact or consistent provisions, and

c. submitting with the application the fees, as provided for in Section 6-212 of Title 47 of the Oklahoma Statutes. The fees shall be remitted to the State Treasurer to be credited to the General Revenue Fund of the State Treasury;

2. Upon reinstatement, the Department of Public Safety may remove any record of the suspension and reinstatement as provided for in this section from the file of the individual licensee and maintain an internal record of the suspension and reinstatement for fiscal and other purposes.

D. Any person whose driving privilege is suspended or subject to suspension in this state pursuant to the provisions of this section, at any time, may informally present specific reasons or documentation to the Department of Public Safety to show that such suspension may be unwarranted. The Department of Public Safety may stay the

suspension or suspension action pending receipt of further information or documentation from the person or from the jurisdiction requesting such suspension, or pending review of the record, or other inquiry. If the Department of Public Safety determines the suspension is unwarranted, the suspension action shall be withdrawn or vacated without the requirement of a processing fee and a reinstatement fee and the Department of Public Safety shall accordingly notify the jurisdiction which requested the suspension. If, however, the request for suspension appears valid, the Department of Public Safety shall proceed with suspension of the driving privilege of the person and the person shall have the right to appeal as provided for by Section 6-211 of Title 47 of the Oklahoma Statutes. Provided, however, the court shall not consider modification, but shall either sustain or vacate the order of suspension of the Department of Public Safety based upon the records on file with the Department of Public Safety, the law and other relevant evidence.
Added by Laws 1986, c. 250, § 6, operative July 1, 1987. Amended by Laws 1987, c. 205, § 66, operative July 1, 1987; Laws 1994, c. 218, § 11, eff. April 1, 1995; Laws 2003, c. 392, § 1, eff. July 1, 2003; Laws 2009, c. 84, § 3, eff. Nov. 1, 2009.

§22-1121. Rewards from fugitives of justice.

The Governor or his designee may offer a reward not exceeding One Thousand Dollars ($1,000.00), payable out of the State Treasury, for the apprehension, or information leading to the apprehension:

1. Of any convict who has escaped from a state correctional institution; or

2. Of any person who has committed, or is charged with the commission of an offense, punishable with death.

R.L. 1910, § 6080. Amended by Laws 1986, c. 34, § 1, eff. Nov. 1, 1986.

§22-1122. Reward for arrest and conviction of person committing felony.

The Governor is hereby authorized in his discretion to offer a reward of not exceeding One Thousand Dollars ($1,000.00) for the arrest and conviction of any person who commits or attempts to commit any felony. Such reward may be paid to any officer, agency or person who makes such arrest and conviction is secured. In case any person shall forcibly resist arrest, and shall be killed in the attempt to accomplish his arrest, the reward shall, in the discretion of the Governor, be paid the same as in the case of conviction.
Laws 1915, c. 13, § 1.

§22-1123. Extradition - Delivery of accused.

A person charged in any state or territory of the United States with treason, felony, or other crime, who shall flee from justice and be found in this State, must, on demand of the executive authority of the state or territory from which he fled be delivered up by the Governor of this state, to be removed to the state or territory having jurisdiction of the crime.
R.L.1910, § 6081.

§22-1134. Costs of returning fugitives.

A. 1. When the Governor shall demand from the executive authority of a state or territory of the United States or of a foreign government the surrender to the authorities of this state of a fugitive from justice, the accounts of the persons employed for that purpose shall be paid out of the State Treasury and shall be collected as costs in the case.

2. When extradition is demanded by the Governor upon the application of a district attorney of any county, for the return of a fugitive wanted in that county, the actual, necessary expenses of the person designated by the district attorney and appointed as the agent of the state to return the fugitive shall be paid by the county upon an itemized, verified claim with receipts attached which shall be collected as costs in the case.

B. 1. In all cases wherein any person shall be charged with the violation of the statutes of this state relating to desertion or abandonment of wife and child, or of child, and such person shall be a fugitive from justice and such person’s whereabouts shall be known, it shall be the mandatory duty of the district attorney of the county wherein such charges are pending or of a designee, to request the Governor to issue a requisition for the return of such fugitive and to appoint an agent to effect such return.

2. The accounts of the person or persons employed by the Governor, to return such fugitive referred to in paragraph 1 above, may be paid by the state out of funds appropriated to the Governor's Contingency and Emergency Fund, not to exceed Twenty-five Thousand Dollars ($25,000.00) for any one (1) year in excess of any amounts recovered from such fugitives.

3. The cost of returning the fugitive shall be added on to the court costs against the deserter and no such case shall be dismissed unless the costs are paid. Such amount shall be used to reimburse the Governor's Contingency and Emergency Fund for the amount disbursed therefrom.

C. Every fugitive from justice shall be required to reimburse the county sheriff’s office for the actual costs required for apprehension and return, unless such costs are paid from the Governor’s Contingency and Emergency Fund, and in such case the reimbursement may be paid to such fund.

R.L.1910, § 6092. Amended by Laws 1943, p. 84, § 1; Laws 1955, p. 199, § 1. Amended by Laws 1990, c. 309, § 9, eff. Sept. 1, 1990; Laws 1999, c. 408, § 1, eff. Nov. 1, 1999; Laws 2002, c. 117, § 1, emerg. eff. April 19, 2002.

§22-1135. Foreign arrests - Fees or rewards forbidden.

No compensation, fee, or reward of any kind can be paid to, or received by a public officer of this state for a service rendered or expense incurred in procuring from the Governor the demand mentioned in the last section, or the surrender of the fugitive, or for conveying him to this state, or detaining him herein, except as provided in the last section.
R.L.1910, § 6093.

§22-1136. Foreign arrests - Misdemeanors.

A violation hereof is a misdemeanor.
R.L.1910, § 6094.

§22-1141.1. Definitions.

Where appearing in this act, the term "Governor" includes any person performing the functions of Governor by authority of the law of this state. The term "executive authority" includes the Governor, and any person performing the functions of Governor in a state other than this state, and the term "state", referring to a state other than this state, includes any other state or territory, organized or unorganized, of the United States of America.
Added by Laws 1949, p. 206, § 1, emerg. eff. March 25, 1949.

§22-1141.2. Duty of Governor.

Subject to the provisions of this act, the provisions of the Constitution of the United States controlling, and any and all Acts of Congress enacted in pursuance thereof, it is the duty of the Governor of this state to have arrested and delivered up to the executive authority of any other state of the United States any person charged in that state with treason, felony, or other crime, who has fled from justice and is found in this state.
Laws 1949, p. 207, § 2.

§22-1141.3. Requisites of demand - Accompanying papers.

No demand for the extradition of a person charged with crime in another state shall be recognized by the Governor unless in writing alleging, except in cases arising under Section 6, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together

with a copy of any warrant which was issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of his bail, probation or parole. The indictment, information, or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state; and the copy of indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the executive authority making the demand.
Laws 1949, p. 207, § 3.

§22-1141.4. Investigation and report.

When a demand shall be made upon the Governor of this state by the executive authority of another state for the surrender of a person so charged with crime, the Governor may call upon the Attorney General or any prosecuting officer in this state to investigate or assist in investigating the demand, and to report to him the situation and circumstances of the person so demanded, and whether he ought to be surrendered.
Laws 1949, p. 207, § 4.

§22-1141.5. Agreement for return to other state - Surrender of person leaving state involuntarily.

When it is desired to have returned to this state a person charged in this state with a crime, and such person is imprisoned or is held under criminal proceedings then pending against him in another state, the Governor of this state may agree with the executive authority of such other state for the extradition of such person before the conclusion of such proceedings or his term of sentence in such other state, upon condition that such person be returned to such other state at the expense of this state as soon as the prosecution in this state is terminated.

The Governor of this state may also surrender on demand of the executive authority of any other state any person in this state who is charged in the manner provided in Section 23 of this act with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.
Laws 1949, p. 207, § 5.

§22-1141.6. Surrender of persons not fleeing from demanding state.

The Governor of this state may also surrender, on demand of the executive authority of any other state, any person in this state charged in such other state in the manner provided in Section 3 with committing an act in this state, or in a third state, intentionally resulting in a crime in the state whose executive authority is making

the demand, and the provisions of this act not otherwise inconsistent, shall apply to such cases, even though the accused was not in that state at the time of the commission of the crime, and has not fled therefrom.
Laws 1949, p. 207, § 6.

§22-1141.7. Warrant of arrest of Governor.

If the Governor decides that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the State Seal, and be directed to any peace officer or other person whom he may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.
Laws 1949, p. 208, § 7.

§22-1141.8. Authority conferred by warrant.

Such warrant shall authorize the peace officer or other person to whom directed to arrest the accused at any time and any place where he may be found within the state and to command the aid of all peace officers or other persons in the execution of the warrant, and to deliver the accused, subject to the provisions of this act to the duly authorized agent of the demanding state.
Laws 1949, p. 208, § 8.

§22-1141.9. Authority to command assistance.

Every such peace officer or other person empowered to make the arrest, shall have the same authority, in arresting the accused, to command assistance therein, as peace officers have by law in the executive of any criminal process directed to them, with like penalties against those who refuse their assistance.
Laws 1949, p. 209, § 9.

§22-1141.10. Notice of demand to allege fugitive - Counsel - Habeas corpus.

Any person who is arrested within this state, by virtue of a warrant issued by the Governor of this state, upon a requisition of the Governor of any other state or territory, as a fugitive from justice under the laws of the United States, shall not be delivered to the agent of such state or territory until notified of the demand made for his surrender, and given twenty-four (24) hours to make demand for counsel; and should such demand be made for the purpose of suing out a writ of habeas corpus, the prisoner shall be forthwith taken to the nearest judge of the district court, and ample time given to sue out such writ, such time to be determined by the said judge of the district court.
Laws 1949, p. 209, § 10.

§22-1141.11. Disobedience of preceding section.

Any officer who shall deliver to the agent for extradition of the demanding state a person in his custody under the Governor's warrant, in willful disobedience to the last section, shall be guilty of a misdemeanor and, on conviction, shall be fined not more than Five Hundred Dollars ($500.00) or be imprisoned not more than six (6) months, or both.

Laws 1949, p. 208, § 11.

§22-1141.12. Confinement of prisoner in jail.

The officer or persons executing the Governor's warrant of arrest, or the agent of the demanding state to whom the prisoner may have been delivered may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or person having charge of him is ready to proceed on his route, such officer or person being chargeable with the expense of keeping.

The officer or agent of a demanding state to whom a prisoner may have been delivered following extradition proceedings in another state, or to whom a prisoner may have been delivered after waiving extradition in such other state, and who is passing through this state with such a prisoner for the purpose of immediately returning such prisoner to the demanding state may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of him is ready to proceed on his route, such officer or agent, however, being chargeable with the expense of keeping; provided, however, that such officer or agent shall produce and show to the keeper of such jail satisfactory written evidence of the fact that he is actually transporting such prisoner to the demanding state after a requisition by the executive authority of such demanding state. Such prisoner shall not be entitled to demand a new requisition while in this state.

Laws 1949, p. 208, § 12.

§22-1141.13. Issuance of warrant of arrest by judge or magistrate.

Whenever any person within this state shall be charged on the oath of any credible person before any judge or magistrate of this state with the commission of any crime in any other state and, except in cases arising under Section 6, with having fled from justice or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole, or whenever complaint shall have been made before any judge or magistrate in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in such other state, and that the accused has been

charged in such state with the commission of the crime, and, except in cases arising under Section 6, has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole and is believed to be in this state, the judge or magistrate shall issue a warrant directed to any peace officer commanding him to apprehend the person named therein, wherever he may be found in this state, and to bring him before the same or any other judge, magistrate or court who or which may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.
Laws 1949, p. 209, § 13.

§22-1141.14. Arrest without warrant.

The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one (1) year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the preceding section; and thereafter his answer shall be heard as if he had been arrested on a warrant.
Laws 1949, p. 209, § 14.

§22-1141.15. Commitment by judge or magistrate.

If from the examination before the judge or magistrate, it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under Section 6, that he has fled from justice, the judge or magistrate must, by a warrant reciting the accusation, commit him to the county jail for such a time not exceeding thirty (30) days and specified in the warrant, as will enable the arrest of the accused to be made under a warrant of the Governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused give bail as provided in the next section, or until he shall be legally discharged.
Laws 1949, p. 209, § 16.

§22-1141.16. Bail.

Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this state may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his

appearance before him at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the Governor of this state.
Laws 1949, p. 209, § 16.

§22-1141.17. Discharge or recommitment.

If the accused is not arrested under warrant of the Governor by the expiration of the time specified in the warrant or bond, a judge or magistrate may discharge him or may recommit him for a further period not to exceed sixty (60) days, or a judge or magistrate may again take bail for his appearance and surrender, as provided in Section 16, but within a period not to exceed sixty (60) days after the date of such new bond.
Laws 1949, p. 209, § 17.

§22-1141.18. Forfeiture of bail.

If the prisoner is admitted to bail, and fails to appear and surrender himself according to the conditions of his bond, the judge, or magistrate by proper order, shall declare the bond forfeited and order his immediate arrest without warrant if he be within this state. Recovery may be had on such bond in the name of the state as in the case of other bonds given by the accused in criminal proceedings within this state.
Laws 1949, p. 210, § 18.

§22-1141.19. Demand for person against whom prosecution pending.

If a criminal prosecution has been instituted against such person under the laws of this state and is still pending the Governor, in his discretion, either may surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this state.
Laws 1949, p. 210, § 19.

§22-1141.20. Inquiry into guilt or innocence.

The guilt or innocence of the accused as to the crime of which he is charged may not be inquired into by the Governor or in any proceedings after the demand for extradition accompanied by a charge of crime in legal form as above provided shall have been presented to the Governor, except as it may be involved in identifying the person held as the person charged with the crime.
Laws 1949, p. 210, § 20.

§22-1141.21. Recalling warrant - New warrant.

The Governor may recall his warrant of arrest or may issue another warrant whenever he deems proper.
Laws 1949, p. 210, § 21.

§22-1141.22. Warrant to agent to receive person demanded.

Whenever the Governor of this state shall demand a person charged with crime or with escaping from confinement or breaking the terms of his bail, probation or parole in this state, from the executive authority of any other state, or from the Chief Justice or an Associate Justice of the Supreme Court of the District of Columbia authorized to receive such demand under the laws of the United States, he shall issue a warrant under the seal of this state, to some agent, commanding him to receive the person so charged if delivered to him and convey him to the proper officer of the county in this state in which the offense was committed.
Laws 1949, p. 210, § 22.

§22-1141.23. Application to Governor by prosecuting attorney for requisition.

When the return to this state of a person charged with crime in this state is required, the prosecuting attorney shall present to the Governor his written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against him, the approximate time, place and circumstances of its commission, the state in which he is believed to be, including the location of the accused therein at the time the application is made and certifying that, in the opinion of the said prosecuting attorney the ends of justice require the arrest and return of the accused to this state for trial and that the proceeding is not instituted to enforce a private claim.

II. When the return to this state is required of a person who has been convicted of a crime in this state and has escaped from confinement or broken the terms of his bail, probation or parole, the prosecuting attorney of the county in which the offense was committed, the parole board, or the warden of the institution or sheriff of the county, from which escape was made, shall present to the Governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape from confinement or of the breach of the terms of his bail, probation or parole, the state in which he is believed to be, including the location of the person therein at the time application is made.

III. The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge or magistrate, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The prosecuting officer, parole board, warden or sheriff may also attach such further affidavits and other documents in duplicate as he shall deem proper to be submitted

with such application. One copy of the application, with the action of the Governor indicated by endorsement thereon, and one of the certified copies of the indictment, complaint, information, and affidavits, or of the judgment of conviction or of the sentence shall be filed in the office of the Secretary of State to remain of record in that office. The other copies of all papers shall be forwarded with the Governor's requisition.
Laws 1949, p. 210, § 23.

§22-1141.24. Immunity from civil process.

A person brought into this state by, or after waiver of, extradition based on a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceedings to answer which he is being or has been returned, until he has been convicted in the criminal proceeding, or, if acquitted, until he has had reasonable opportunity to return to the state from which he was extradited.
Laws 1949, p. 211, § 24.

§22-1141.25. Waiver of proceedings and consent to return to demanding state.

Any person arrested in this state charged with having committed any crime in another state or alleged to have escaped from confinement, or broken the terms of his bail, probation or parole may waive the issuance and service the warrant provided for in Section 7 and 8 and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any court of record within this state a writing which states that he consents to return to the demanding state; provided, however, that before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in Section 10. If and when such consent has been duly executed it shall forthwith be forwarded to the office of the Governor of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; provided, however, that nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this state.
Laws 1949, p. 211, § 25.

§22-1141.26. Rights of state not deemed waived.

Nothing in this act contained shall be deemed to constitute a waiver by this state of its right, power or privilege to try such demanded person for crime committed within this state, or of its right, power or privilege to regain custody of such person by extradition proceedings or otherwise for the purpose of trial, sentence or punishment for any crime committed within this state, nor shall any proceedings had under this act which result in, or fail to result in, extradition be deemed a waiver by this state of any of its rights, privileges or jurisdiction in any way whatsoever.
Laws 1949, p. 211, § 26.

§22-1141.27. Trial for other offenses than that specified.

After a person has been brought back to this state by, or after waiver of extradition proceedings, he may be tried in this state for other crimes which he may be charged with having committed here as well as that specified in the requisition for his extradition.
Laws 1949, p. 212, § 27.

§22-1141.28. Uniformity of construction.

The provisions of this act shall be so interpreted and construed as to effectuate its general purposes to make uniform the law of those states which enact it.
Laws 1949, p. 212, § 28.

§22-1141.29. Partial invalidity.

If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.
Laws 1949, p. 212, § 29.

§22-1141.30. Short title.

This act may be cited as the Uniform Criminal Extradition Act.
Laws 1949, p. 210, § 20.

§22-1145.1. Short title.

This act shall be known and cited as "The Uniform Disposition of Criminal Cases on the Merits Act".
Laws 1972, c. 222, § 1, eff. Jan. 1, 1973.

§22-1145.2. Purpose of act.

The purpose of this act is to allow the activities of an individual to be dealt with in one court at a time, no matter where the activities occurred, to the end that society may be afforded retribution for offenses against it and that the rehabilitative process can immediately begin.

Laws 1972, c. 222, § 2, eff. Jan. 1, 1973.

§22-1145.3. Definitions.

In this act, unless the context requires otherwise:

1. "Asylum state" means that state in which the defendant is located;

2. "Demanding state" means that state, other than Oklahoma, in which the accused is charged with committing criminal acts;

3. "Prosecuting attorney" means the attorney of the county, parish or district, state or federal, wherein charges are filed; and

4. "Jurisdiction" means geographic division or subdivision in which such prosecuting attorney has responsibility.

Laws 1972, c. 222, § 2, eff. Jan. 1, 1973.

§22-1145.4. Disposal of criminal charge at request of defendant.

On request of the defendant and consent of the prosecuting attorney in the demanding state and the prosecuting attorney in the asylum state, the trial court of general jurisdiction or such other court having appropriate jurisdiction in the asylum state may dispose of the offense or offenses set out in the complaint, indictment or information or other equivalent pleading of the demanding state, and an exemplified copy of the judgment of the asylum state shall constitute a judgment on the merits when filed in the case in the courts of the demanding state.

Laws 1972, c. 222, § 4, eff. Jan. 1, 1973.

§22-1145.5. Relief available - Effect of judgment - Act as supplemental.

All relief available in the courts of the demanding state and in the courts of the asylum state shall be available to the court of the asylum state in rendering its judgment and satisfaction of the judgment of the asylum state shall constitute a complete satisfaction of the judgment of the demanding state and the judgment so rendered may be enforced in either state.

This act is supplemental to and not in substitution for the provisions of the agreement on detainers, including but not limited to sentencing, incarceration, probation, orders for restitution, suspension and enhancement of sentence.

Added by Laws 1972, c. 222, § 5, eff. Jan. 1, 1973.

§22-1145.6. Procedures, rules and regulations.

A. A defendant arrested or held in a state or district other than that in which the indictment or information is pending against him may state in writing that he wishes to plead guilty, to waive trial in the district in which the indictment or information is pending and to consent to disposition of the case in the jurisdiction or district in which he was arrested or is held, subject to the

approval of the prosecuting attorney for each jurisdiction. Upon receipt of the defendant's statement and of the written approval of the prosecuting attorneys, the clerk of the court in which the indictment or information is pending shall transmit the papers in the proceeding or certified copies thereof to the clerk of the court for the jurisdiction in which the defendant is held and the prosecution shall continue in that jurisdiction.

B. A defendant arrested on a warrant issued upon a complaint in a jurisdiction other than the county, parish or district of arrest may state in writing that he wishes to plead guilty to waive trial in the jurisdiction in which the warrant was issued and to consent to disposition of the case in the jurisdiction in which he was arrested, subject to the approval of the prosecuting attorney for each jurisdiction. Upon receipt of the defendant's statement and of the written approval of the prosecuting attorneys, the court of limited jurisdiction shall certify and transmit the records in the case to the court of general jurisdiction, and, upon the filing of an information or the return of an indictment, the clerk of the court for the jurisdiction or district in which the warrant was issued shall transmit the papers in the proceeding or certified copies thereof to the clerk of the court for the jurisdiction or district in which the defendant was arrested and the prosecution shall continue in that jurisdiction or district. When the defendant is brought before the court to plead to an information filed in the jurisdiction or district where the warrant was issued, he may at that time waive indictment and the prosecution may continue based upon the information originally filed.

C. A juvenile who is arrested or held in a jurisdiction or district other than that in which he is alleged to have committed an act in violation of a law of a state or of the United States not punishable by death or life imprisonment may, after he has been advised by counsel and with the approval of the court and the prosecuting attorney, consent to be proceeded against as a juvenile delinquent in the jurisdiction or district in which he is arrested or held. The consent shall be given in writing before the court but only after the court has apprised the juvenile of his rights, including the right to be returned to the jurisdiction or district in which he is alleged to have committed the act, and of the consequences of such consent.

D. For the purpose of initiating a transfer under this rule a person who appears in response to a summons shall be treated as if he had been arrested on a warrant in the jurisdiction or district of such appearance.

Laws 1972, c. 222, § 6, eff. Jan. 1, 1973.

§22-1151. Habeas corpus for person to testify or be surrendered on bail.

The Supreme Court, and Criminal Court of Appeals and district and superior courts within this state, or the judges thereof in vacation, shall have power to issue writs of habeas corpus, for the purpose of bringing the body of any person confined in any prison before them, to testify or be surrendered in discharge of bail. When a writ of habeas corpus shall be issued for the purpose of bringing into court any person to testify, or the principal, to be surrendered in discharge of bail, and such principal or witness, shall be confined in any prison in this state, out of the county in which such principal or witness is required to be surrendered, or to any county in this state, and there be executed and returned by any officer to whom it shall be directed, and the principal, after being surrendered, or his bail discharged, or a person testifying as aforesaid, shall by the officer executing such writ, be returned by virtue of an order of the court, for the purpose aforesaid, an attested copy of which, lodged with the custodian, shall exonerate such prison keeper from being liable for an escape. The party praying out such writ of habeas corpus shall pay to the officer executing the same, such reasonable sum for his services as shall be adjudged by the courts respectively.
R.L.1910, § 6102.

§22-1161. Acts committed by persons in a state of mental illness or defect - Sentencing - Appeal - Examination – Treatment.

A. 1. An act committed by a person in a state of mental illness or mental defect shall be adjudicated as guilty with mental defect or as not guilty by reason of mental illness.

2. If a person is found guilty with mental defect or enters a plea of guilty with mental defect which is accepted by the court, the court at the time of sentencing shall impose any sentence that could be imposed by law upon a person who is convicted of the same offense, and the person shall serve the sentence in custody of a county jail or the Oklahoma Department of Corrections.

3. If a person who is found guilty with mental defect is placed on probation under the jurisdiction of the sentencing court as provided by law, the court shall immediately issue an order for the person to be examined by the Department of Mental Health and Substance Abuse Services. The time and place of such examination shall be determined by the Department. Within forty-five (45) days, the Department shall provide to the court a recommendation of treatment for the person, which shall be made a condition of probation. Reports as specified by the trial judge shall be filed with the probation officer and the sentencing court. Failure to continue treatment, except by agreement with the treating agency and the sentencing court, is grounds for revocation of probation. Treatment shall be provided by an agency of the Department or, with the approval of the sentencing court and at the expense of the

person, by private agencies, private physicians or other mental health personnel. A psychiatric report shall be filed with the probation officer and the sentencing court every six (6) months during the period of probation.

4. When in any criminal action by indictment or information, the defense of mental illness is raised, but the defendant is not acquitted on the ground that the defendant was mentally ill at the time of the commission of the crime charged, an issue concerning such defense may be raised on appeal. If the appellate court finds relief is required, the appellate court shall not have authority to modify the judgment or sentence, but will only have the authority to order a new trial or order resentencing without recommendations to sentencing.

5. When in any criminal action by indictment or information the defense of mental illness is interposed either singly or in conjunction with some other defense, the jury shall state in the verdict, if it is one of acquittal, whether or not the defendant is acquitted on the ground of mental illness. When the defendant is acquitted on the ground that the defendant was mentally ill at the time of the commission of the crime charged, the person shall not be discharged from custody until the court has made a determination that the person is not dangerous to the public peace and safety and is a person requiring treatment.

B. 1. To assist the court in its determination, the court shall immediately issue an order for the person to be examined by the Department of Mental Health and Substance Abuse Services at a facility the Department has designated to examine and treat forensic individuals. Upon the issuance of the order, the sheriff shall deliver the person to the designated facility.

2. Within forty-five (45) days of the court entering such an order, a hearing shall be conducted by the court to ascertain whether the person is dangerous to the public peace or safety because the person is a person requiring treatment or, if not, is in need of continued supervision as a result of unresolved symptoms of mental illness or a history of treatment noncompliance. During the required period of hospitalization the Department of Mental Health and Substance Abuse Services shall have the person examined by two qualified psychiatrists or one such psychiatrist and one qualified clinical psychologist whose training and experience enable the professional to form expert opinions regarding mental illness, competency, dangerousness and criminal responsibility.

C. 1. Each examiner shall, within thirty-five (35) days of hospitalization, individually prepare and submit to the court, the district attorney and the trial counsel of the person a report of the psychiatric examination findings of the person and an evaluation concerning whether the person is dangerous to the public peace or safety.

2. If the court is dissatisfied with the reports or if a disagreement on the issue of mental illness and dangerousness exists between the two examiners, the court may designate one or more additional examiners and have them submit their findings and evaluations as specified in paragraph 1 of this subsection.

3. a. Within ten (10) days after the reports are filed, the court must conduct a hearing to determine the present condition of the person as to the issue of whether:
   (1) the person is dangerous to the public peace or safety because the person is a person requiring treatment, or
   (2) if not believed to be dangerous to the public peace or safety, the person is in need of continued supervision as a result of unresolved symptoms of mental illness or a history of treatment noncompliance.

b. The district attorney must establish the foregoing by a preponderance of the evidence. At this hearing the person shall have the assistance of counsel and may present independent evidence.

D. 1. If the court finds that the person is not dangerous to the public peace or safety because the person is a person requiring treatment and is not in need of continued supervision as a result of unresolved symptoms of mental illness or a history of treatment noncompliance, it shall immediately discharge the person from hospitalization.

2. If the court finds that the person is dangerous to the public peace and safety, it shall commit the person to the custody of the Department of Mental Health and Substance Abuse Services. The person shall then be subject to discharge pursuant to the procedure set forth in this section.

a. During the period of hospitalization, the Department of Mental Health and Substance Abuse Services may administer or cause to be administered to the person such psychiatric, medical or other therapeutic treatment as in its judgment should be administered.

b. The person shall be subject to discharge or conditional release pursuant to the procedures set forth in this section.

E. If at any time the court finds the person is not dangerous to the public peace or safety because the person is a person requiring treatment, but is in need of continued supervision as a result of unresolved symptoms of mental illness or a history of treatment noncompliance, the court may:

1. Discharge the person pursuant to the procedure set forth in this section;

2. Discharge the person, and upon the motion of the court or the district attorney commence civil involuntary commitment proceedings against the person pursuant to the provisions of Title 43A of the Oklahoma Statutes; or

3. Order conditional release, as set forth in subsection F of this section.

F. There is hereby created a Forensic Review Board to be composed of seven (7) members appointed by the Governor with the advice and consent of the Senate. The Board members shall serve for a term of five (5) years except that for members first appointed to the Board: one shall serve for a term ending December 31, 2008, two shall serve for a term ending December 31, 2009, two shall serve a term ending December 31, 2010, and two shall serve for a term ending December 31, 2011.

1. The Board shall be composed of:

a. four licensed mental health professionals with experience in treating mental illness, at least one of whom is licensed as a Doctor of Medicine, a Doctor of Osteopathy, or a licensed clinical psychologist and shall be appointed from a list of seven names submitted to the Governor by the Department of Mental Health and Substance Abuse Services,

b. one member who shall be an attorney licensed to practice in this state and shall be appointed from a list of not less than three names submitted to the Governor by the Board of Governors of the Oklahoma Bar Association,

c. one member who shall be a retired judge licensed to practice in this state and shall be appointed from a list of not less than three names submitted to the Governor by the Judicial Nominating Committee, and

d. one at-large member.

The attorney and retired judge members of the Board shall be prohibited from representing in the courts of this state persons charged with felony offenses while serving on the Board.

2. The Board shall meet as necessary to determine which individuals confined with the Department of Mental Health and Substance Abuse Services are eligible for therapeutic visits, conditional release or discharge and whether the Board wishes to make such a recommendation to the court of the county where the individual was found not guilty by reason of insanity or not guilty by reason of mental illness for those persons adjudicated as such upon or after November 1, 2016.

a. Forensic Review Board meetings shall not be considered subject to the Oklahoma Open Meeting Act and are not open to the public. Other than the Forensic Review

Board members, only the following individuals shall be permitted to attend Board meetings:

(1) the individual the Board is considering for therapeutic visits, conditional release or discharge, his or her treatment advocate, and members of his or her treatment team,

(2) the Commissioner of Mental Health and Substance Abuse Services or designee,

(3) the Advocate General for the Department of Mental Health and Substance Abuse Services or designee,

(4) the General Counsel for the Department of Mental Health and Substance Abuse Services or designee, and

(5) any other persons the Board and Commissioner of Mental Health and Substance Abuse Services wish to be present.

b. The Department of Mental Health and Substance Abuse Services shall provide administrative staff to the Board to take minutes of meetings and prepare necessary documents and correspondence for the Board to comply with its duties as set forth in this section. The Department of Mental Health and Substance Abuse Services shall also transport the individuals being reviewed to and from the Board meeting site.

c. The Board shall promulgate rules concerning the granting and structure of therapeutic visits, conditional releases and discharge.

d. For purposes of this subsection, "therapeutic visit" means a scheduled time period off campus which provides for progressive tests of the ability of the consumer to maintain and demonstrate coping skills.

3. The Forensic Review Board shall submit any recommendation for therapeutic visit, conditional release or discharge to the court and district attorney of the county where the person was found not guilty by reason of mental illness, the trial counsel of the person, the Department of Mental Health and Substance Abuse Services and the person at least fourteen (14) days prior to the scheduled visit.

a. The district attorney may file an objection to a recommendation for a therapeutic visit within ten (10) days of receipt of the notice.

b. If an objection is filed, the therapeutic visit is stayed until a hearing is held. The court shall hold a hearing not less than ten (10) days following an objection to determine whether the therapeutic visit is necessary for treatment, and if necessary, the nature and extent of the visit.

4. During the period of hospitalization the Department of Mental Health and Substance Abuse Services shall submit an annual report on the status of the person to the court, the district attorney and the patient advocate general of the Department of Mental Health and Substance Abuse Services.

G. Upon motion by the district attorney or upon a recommendation for conditional release or discharge by the Forensic Review Board, the court shall conduct a hearing to ascertain if the person is dangerous and a person requiring treatment. This hearing shall be conducted under the same procedure as the first hearing and must occur not less than ten (10) days following the motion or request by the Forensic Review Board.

1. If the court determines that the person continues to be dangerous to the public peace and safety because the person is a person requiring treatment, it shall order the return of the person to the hospital for additional treatment.

2. If the court determines that the person is not dangerous but subject to certain conditions, the court may conditionally release the person subject to the following:

a. the Forensic Review Board has made a recommendation for conditional release, including a written plan for outpatient treatment and a list of recommendations for the court to place as conditions on the release,

b. in its order of conditional release, the court shall specify conditions of release and shall direct the appropriate agencies or persons to submit annual reports regarding the compliance of the person with the conditions of release and progress in treatment,

c. the person must agree, in writing, that during the period the person is granted conditional release and is subject to the provisions thereof, there shall be free transmission of all pertinent information, including clinical information regarding the person, among the Department of Mental Health and Substance Abuse Services, the appropriate community mental health centers and the appropriate district attorneys, law enforcement and court personnel,

d. the order of the court placing the person on conditional release shall include notice that the conditional release of the person may be revoked upon good cause. The person placed on conditional release shall remain under the supervision of the Department of Mental Health and Substance Abuse Services until the committing court enters a final discharge order. The Department of Mental Health and Substance Abuse Services shall assess the person placed on conditional

release annually and shall have the authority to recommend discharge of the person to the Board, and

e. any agency or individual involved in providing treatment with regard to the conditional release plan of the person may prepare and file an affidavit under oath if the agency or individual believes that the person has failed to comply with the conditions of release or that such person has progressed to the point that inpatient care is appropriate.

(1) Any peace officer who receives such an affidavit shall take the person into protective custody and return the person to the forensic unit of the state hospital.

(2) A hearing shall be conducted within three (3) days, excluding holidays and weekends, after the person is returned to the forensic unit of the state hospital to determine if the person has violated the conditions of release, or if full-time hospitalization is the least restrictive alternative consistent with the needs of the person and the need for public safety. Notice of the hearing shall be issued, at least twenty-four (24) hours before the hearing, to the hospital superintendent, the person, trial counsel for the person, and the patient advocate general of the Department of Mental Health and Substance Abuse Services. If the person requires hospitalization because of a violation of the conditions of release or because of progression to the point that inpatient care is appropriate, the court may then modify the conditions of release.

3. If the court determines that the person is not dangerous to the public peace or safety because the person is not a person requiring treatment, it shall order that the person be discharged from the custody of the Department of Mental Health and Substance Abuse Services.

H. As used in this section:

1. "Antisocial personality disorder" means antisocial personality disorder as defined by the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition (DSM-5), or subsequent editions;

2. "Court" or "sentencing court" means the court sitting in the county where the person has been found to be not guilty by reason of mental illness or guilty with mental defect;

3. "Dangerous" means a person who because of mental illness poses a substantial risk of physical harm in the near future to another person or persons. Dangerousness shall be determined by such

factors as whether the person has placed another person or persons in a reasonable fear of violent behavior, and medication and treatment compliance;

4. "Guilty with mental defect" means the person committed the act and was either unable to understand the nature and consequences of his or her actions or was unable to differentiate right from wrong, and has been diagnosed with antisocial personality disorder which substantially contributed to the act for which the person has been charged;

5. "Mental defect" means the person has been diagnosed with antisocial personality disorder which substantially contributed to the act for which the person has been charged;

6. "Mental illness" means a substantial disorder of thought, mood, perception, psychological orientation or memory that significantly impairs judgment, behavior, capacity to recognize reality or ability to meet the ordinary demands of life;

7. "Not guilty by reason of mental illness" means the person committed the act while mentally ill and was either unable to understand the nature and consequences of his or her actions or was unable to differentiate right from wrong, and has not been diagnosed with antisocial personality disorder which substantially contributed to the act for which the person has been charged; and

8. a. "Person requiring treatment" means a person who because of mental illness:

(1) poses a substantial risk of physical harm to self as manifested by evidence or serious threats of or attempts at suicide or other significant self-inflicted bodily harm,

(2) poses a substantial risk of physical harm to another person or persons as manifested by evidence of violent behavior directed toward another person or persons,

(3) has placed another person or persons in reasonable fear of serious physical harm or violent behavior directed toward such person or persons as manifested by serious and immediate threats,

(4) is in a condition of severe deterioration such that, without immediate intervention, there exists a substantial risk that severe impairment or injury will result to the person, or

(5) poses a substantial risk of serious physical injury to self or death as manifested by evidence that the person is unable to provide for and is not providing for his or her basic physical needs.

b. The mental health or substance abuse history of the person may be used as part of the evidence to determine whether the person is a person requiring treatment.

The mental health or substance abuse history of the person shall not be the sole basis for this determination.

c. Unless a person also meets the criteria established in subparagraph a of this paragraph, "person requiring treatment" shall not mean:

(1) a person whose mental processes have been weakened or impaired by reason of advanced years, dementia or Alzheimer's disease,

(2) a person with intellectual or developmental disability as defined in Title 10 of the Oklahoma Statutes,

(3) a person with seizure disorder, or

(4) a person with a traumatic brain injury.

I. Proceedings hereunder may be held in conformance with the provisions of Section 3006 of Title 20 of the Oklahoma Statutes for allowable use of videoconferencing.

R.L. 1910, § 6049. Amended by Laws 1935, p. 19, § 1, emerg. eff. May 8, 1935; Laws 1975, c. 92, § 1; Laws 1983, c. 94, § 1, eff. Nov. 1, 1983; Laws 1990, c. 51, § 16, emerg. eff. April 9, 1990; Laws 2000, c. 421, § 1, eff. Nov. 1, 2000; Laws 2004, c. 188, § 1, eff. Nov. 1, 2004; Laws 2007, c. 358, § 8, eff. July 1, 2007; Laws 2008, c. 39, § 1, eff. Nov. 1, 2008; Laws 2016, c. 279, § 1, eff. Nov. 1, 2016; Laws 2017, c. 375, § 1, eff. Nov. 1, 2017; Laws 2019, c. 475, § 20, eff. Nov. 1, 2019.

§22-1162. Jury to try sanity.

When an indictment or information is called for trial, or upon conviction the defendant is brought up for judgment, if a doubt arise as to the sanity of the defendant, the court must order a jury to be impaneled from the jurors summoned and returned for the term, or who may be summoned by direction of the court, to inquire into the fact.

R.L.1910, § 6050.

§22-1163. Sanity hearing - Criminal trial to be suspended.

The trial of the cause or the pronouncing the judgment, as the case may be, must be suspended until the question of insanity is determined by the verdict of the jury.

R.L.1910, § 6051.

§22-1164. Order of trial of sanity.

The trial of the question of insanity must proceed in the following order:

1. The counsel for the defendant must open the case and offer evidence in support of the allegation of insanity.

2. The counsel for the state may then open their case and offer evidence in support thereof.

3. The parties may then respectively offer rebutting testimony only, unless the court, for good reason, in furtherance of justice, permit them to offer evidence upon their original case.

4. When the evidence is concluded, unless the case be submitted to the jury on either side or on both sides, without argument, the counsel for the state must commence, and the defendant or his counsel may conclude the argument to the jury.

5. If the indictment be for an offense punishable with death two counsels on each side may argue the causes to the jury, in which case they must do so alternately. If it be for any other offense, the court may, in its discretion, restrict the argument to one counsel on each side.

6. The court must then charge the jury before argument as in other cases.

R.L.1910, § 6052.

§22-1165. Rules governing sanity trial.

The provisions of the article on trials, in respect to the duty of the court upon questions of law, and of the jury upon questions of fact, and the provisions in respect to the charge of the court to the jury, upon the trial of an indictment or information, apply to the questions of insanity.

R.L.1910, § 6053.

§22-1166. Sanity hearing - Trial or judgment to proceed if defendant sane.

If the jury find the defendant sane, the trial of the indictment must proceed, or judgment may be pronounced as the case may be.

R.L.1910, § 6054.

§22-1167. Finding of insanity - Suspension of trial or judgment - Commitment to state hospital.

If the jury finds the defendant presently insane, the trial or judgment must be suspended until he becomes sane, and if the jury deem his discharge dangerous to the public peace or safety, the court shall order that the defendant be committed to one of the state hospitals for the mentally ill, and to be held therein and kept as a patient and inmate, until he be discharged and released as presently sane by the authority of the superintendent of said hospital. A release by the superintendent of said hospital shall be to the custody of the sheriff of the county in which the criminal case theretofore suspended is or was pending and from which he was committed. The court having jurisdiction thereof shall set the cause for trial.

R.L.1910 § 6055; Laws 1963, c. 279, § 1, emerg. eff. June 18, 1963.

§22-1168. Commitment in sanity hearing exonerates bail.

The commitment of the defendant as mentioned in the last section, exonerates his bail, or entitles the person authorized to receive the property of the defendant to the return of money he may have deposited instead of bail.
R.L.1910, § 6056.

§22-1169. Restoration to sanity.

When the defendant becomes sane the sheriff must thereupon, without delay, place him in the proper custody until he be brought to trial or judgment, as the case may be, or be legally discharged.
R.L.1910, § 6057.

§22-1170. Expense of keeping insane defendant.

The expenses of keeping the defendant are in the first instance chargeable to the county, but the county may recover them from the estate of the defendant, if he have any, or from a relative.
R.L.1910, § 6058.

§22-1175.1. Definitions.

As used in Sections 1175.1 through 1176 of this title:

1. "Competent" or "competency" means the present ability of a person arrested for or charged with a crime to understand the nature of the charges and proceedings brought against him or her and to effectively and rationally assist in his or her defense;

2. "Incompetent" or "incompetency" means the present inability of a person arrested for or charged with a crime to understand the nature of the charges and proceedings brought against him or her and to effectively and rationally assist in his or her defense;

3. "Dangerous" means a person who is a person requiring treatment as defined in Section 1-103 of Title 43A of the Oklahoma Statutes;

4. "Criminal proceeding" means every stage of a criminal prosecution after arrest and before judgment, including, but not limited to, interrogation, lineup, preliminary hearing, motion dockets, discovery, pretrial hearings and trial;

5. "Qualified forensic examiner" means any:

   a. psychiatrist with forensic training and experience,
   b. psychologist with forensic training and experience, or
   c. a licensed mental health professional whose forensic training and experience enable him or her to form expert opinions regarding mental illness, competency and dangerousness and who has been approved to render such opinions by the court;

6. "Reasonable period of time" means a period not to exceed the lesser of:

   a. the maximum sentence specified for the most serious offense with which the defendant is charged, or

b. a maximum period of two (2) years; and

7. "Public guardian" means the Office of Public Guardian as established under the Oklahoma Public Guardianship Act in Section 6-101 et seq. of Title 30 of the Oklahoma Statutes.

Added by Laws 1980, c. 336, § 1, emerg. eff. June 25, 1980. Amended by Laws 1992, c. 207, § 1, eff. Sept. 1, 1992; Laws 2000, c. 421, § 2, eff. Nov. 1, 2000; Laws 2004, c. 106, § 2, eff. April 1, 2005; Laws 2011, c. 294, § 3, eff. Nov. 1, 2011.

§22-1175.2. Application for determination of competency - Service - Notice - Suspension of criminal proceedings.

A. No person shall be subject to any criminal procedures after the person is determined to be incompetent except as provided in Sections 1175.1 through 1175.8 of this title. The question of the incompetency of a person may be raised by the person, the attorney for the person whose competency is in question, or the district attorney, by an application for determination of competency. The application for determination of competency shall allege that the person is incompetent to undergo further proceedings, and shall state facts sufficient to raise a doubt as to the competency of the person. The court, at any time, may initiate a competency determination on its own motion, without an application, if the court has a doubt as to the competency of the person.

If the court so initiates such an application, it may appoint the district attorney for the purpose of proceeding with the application. If the district attorney opposes the application of the court, and by reason of a conflict of interest could not represent the court as applicant, then the court shall appoint private counsel. Said private counsel shall be reasonably compensated by the court fund.

B. A copy of the application for determination of competency and a notice, as hereinafter described, shall be served personally at least one (1) day before the first hearing on the application for a competency determination. The notice shall contain the following information:

1. The definition provided by Section 1175.1 of this title of competency and incompetency;

2. That, upon request, the hearing on the application may be conducted as a jury trial as provided in Section 1175.4 of this title;

3. That the petitioner and any witnesses identified in the application may offer testimony under oath at the hearings on the petition and that the defendant may not be called to testify against the defendant's will, unless the application is initiated by the defendant;

4. That if the person whose competency is in question does not have an attorney, the court will appoint an attorney for the person who shall represent the person until final disposition of the case;

5. That if the person whose competency is in question is indigent or poor, the court will pay the attorney fees; and

6. That the person whose competency is in question shall be afforded such other rights as are guaranteed by state and federal law and that such rights include a trial by jury, if demanded. The notice shall be served upon the person whose competency is in question, upon the person's father, mother, husband, or wife or, in their absence, someone of the next of kin, of full age, if any said persons are known to be residing within the county, and upon any of said relatives residing outside of the county, and within the state, as may be ordered by the court, and also upon the person with whom the person whose competency is in question may reside, or at whose house the person may be. The person making such service shall make affidavit of the same and file such notice, with proof of service, with the district court. This notice may be served in any part of this state.

C. Any criminal proceedings against a person whose competency is in question shall be suspended pending the determination of the competency of the person.

Added by Laws 1980, c. 336, § 2, emerg. eff. June 25, 1980. Amended by Laws 1983, c. 104, § 1, eff. Nov. 1, 1983; Laws 2000, c. 421, § 3, eff. Nov. 1, 2000.

§22-1175.3. Hearing - Date - Evidence - Orders - Examination of accused - Instructions to physician.

A. Upon filing of an application for determination of competency, the court shall set a hearing date, which shall be as soon as practicable, but at least one (1) day after service of notice as provided by Section 1175.2 of this title.

B. The court shall hold a hearing on the date provided. At the hearing, the court shall examine the application for determination of competency to determine if it alleges facts sufficient to raise a doubt as to the competency of the person. Any additional evidence tending to create a doubt as to the competency of the person may be presented at this hearing.

C. If the court finds there is no doubt as to the competency of the person, it shall order the criminal proceedings to resume.

D. 1. a. If the court finds there is a doubt as to the competency of the person, it shall order the person to be examined by the Department of Mental Health and Substance Abuse Services or by a qualified forensic examiner designated by the Department to perform competency examinations.

b. In addition, the Developmental Disabilities Services Division of the Department of Human Services shall receive written notice from the district attorney who filed the criminal petition, and be authorized by order

of the court to have a psychologist or other appropriate clinician participate with professionals assigned by any other public or private agency in any competency evaluation wherein developmental or intellectual disability may be involved. The psychologist or clinician employed, by contract or otherwise, by the Department of Human Services may issue a separate opinion and recommendation to the court.

2. The person shall be examined by a qualified forensic examiner on an outpatient basis prior to referral for any necessary inpatient evaluation, as ordered by the court. The outpatient examination may be conducted in the community, the jail or detention facility where the person is held.

3. If the court determines that the person whose competency is in question may be dangerous as defined in Section 1175.1 of this title, it shall order the person retained in a secure facility until the completion of the competency hearing provided in Section 1175.4 of this title. If the court determines the person may be dangerous as defined in Section 1175.1 of this title because the individual is a person requiring treatment as defined in Section 1-103 of Title 43A of the Oklahoma Statutes, it may commit the person to the custody of the Department of Mental Health and Substance Abuse Services or any other state agency or private facility for the examination required by this subsection. The person shall be required to undergo examination for a period of time sufficient for the qualified forensic examiner(s) to reach a conclusion as to competency, and the court shall impose a reasonable time limitation for such period of examination.

E. The qualified forensic examiner(s) shall receive instructions that they shall examine the patient to determine:

1. If the person is able to appreciate the nature of the charges made against such person;

2. If the person is able to consult with the lawyer and rationally assist in the preparation of the defense of such person;

3. If the person is unable to appreciate the nature of the charges or to consult and rationally assist in the preparation of the defense, whether the person can attain competency within a reasonable period of time as defined in Section 1175.1 of this title if provided with a course of treatment, therapy or training;

4. If the person is a person requiring treatment as defined by Section 1-103 of Title 43A of the Oklahoma Statutes;

5. If the person is incompetent because the person is intellectually disabled as defined in Section 1408 of Title 10 of the Oklahoma Statutes;

6. If the answers to questions 4 and 5 are no, why the defendant is incompetent; and

7. If the person were released, whether such person would presently be dangerous as defined in Section 1175.1 of this title.

F. Upon completion of the competency evaluation, the Department of Mental Health and Substance Abuse Services or qualified forensic examiner designated by the Department to perform competency examinations shall notify the court of its findings. If the person is in the custody of the Department of Mental Health and Substance Abuse Services, the person shall be returned to the court in the customary manner within five (5) business days. If the person is not returned within that time, the county in which the proceedings are to be held shall pay the costs of maintaining the person at the institution or facility for the period of time the person remains at the institution or facility in excess of the five-day period. Added by Laws 1980, c. 336, § 3, emerg. eff. June 25, 1980. Amended by Laws 1990, c. 51, § 17, emerg. eff. April 9, 1990; Laws 1993, c. 323, § 1, emerg. eff. June 7, 1993; Laws 1997, c. 407, § 5, eff. Nov. 1, 1997; Laws 2000, c. 421, § 4, eff. Nov. 1, 2000; Laws 2004, c. 106, § 3, eff. April 1, 2005; Laws 2015, c. 300, § 1, emerg. eff. May 11, 2015; Laws 2019, c. 475, § 21, eff. Nov. 1, 2019.

§22-1175.4. Post-examination competency hearing - Evidence - Presumptions - Jury trial - Presence of accused - Witnesses - Instructions.

A. A hearing to determine the competency of the person whose competency is in question shall be held within thirty (30) days after the qualified forensic examiner(s) have made the determination required in Section 1175.3 of this title.

B. The court, at the hearing, shall determine by a preponderance of the evidence if the person is incompetent. Such determination shall include consideration of all reports prepared by the qualified forensic examiner(s). The person shall be presumed to be competent for the purposes of the allocation of the burden of proof and burden of going forward with the evidence. If the court deems it necessary, or if the person alleged to be a person requiring treatment, or any relative, friend, or any person with whom he may reside, or at whose house the person may be, shall so demand, the court shall schedule the hearing on the application as a jury trial to be held within seventy-two (72) hours of the request, excluding weekends and legal holidays, or within as much additional time as is requested by the attorney of the person whose competency is in question, upon good cause shown. The jury shall be composed of six (6) persons having the qualifications required of jurors in courts of record, summoned to determine the questions of the person's competency and need for treatment. Whenever a jury is required, the court shall proceed to the selection of such jury in the manner as provided by law and such jury shall determine the questions of the competency and need for

treatment of the person whose competency is in question. The jurors shall receive fees for attendance and mileage as are allowed by law.

C. The person whose competency is in question shall have the right to be present at the hearing on the petition unless it is made to appear to the court that the presence of the person makes it impossible to conduct the hearing in a reasonable manner. The court may not decide in advance of the hearing, solely on the basis of the certificate of the examining doctor or doctors, that the person whose competency is in question should not be allowed to appear. It shall be made to appear to the court based on clear and convincing evidence that alternatives to exclusion were attempted before the court renders the person's removal for that purpose or the person's appearance at such hearing improper and unsafe.

D. All witnesses shall be subject to cross-examination in the same manner as is provided by law. If so stipulated by counsel for a person whose competency is in question, the district attorney and the court, testimony may be given by telephone or other electronic transmitting device approved by the court. No statement, admission or confession made by the person whose competency is in question obtained during the examination for competency may be used for any purpose except for proceedings under this act. No such statement, admission or confession may be used against such person in any criminal action whether pending at the time the hearing is held or filed against such person at any later time, directly, indirectly or in any manner or form.

E. If the question of competency is submitted to a jury, the court shall instruct the jury as to the law regarding competency, and the findings they are to make. If the trial of the question is to the court, the court shall make the required findings.

Added by Laws 1980, c. 336, § 4, emerg. eff. June 25, 1980. Amended by Laws 1985, c. 190, § 1, eff. Nov. 1, 1985; Laws 1991, c. 178, § 3, eff. Sept. 1, 1991; Laws 1996, c. 161, § 2, eff. Nov. 1, 1996; Laws 2000, c. 421, § 5, eff. Nov. 1, 2000.

§22-1175.5. Questions to be answered in determining competency.

The jury or the court, as the case may be, shall answer the following questions in determining the disposition of the person whose competency is in question:

1. Is the person incompetent to undergo further criminal proceedings at this time? If the answer is no, criminal proceedings shall be resumed. If the answer is yes, the following questions shall be answered.

2. Can the incompetency of the person be corrected within a reasonable period of time, as defined by Section 1175.1 of this title, through treatment, therapy or training?

3. Is the person incompetent because the person is intellectually disabled as defined in Section 1408 of Title 10 of the Oklahoma Statutes?

4. Is the person incompetent because the person is a person requiring treatment as defined by Section 1-103 of Title 43A of the Oklahoma Statutes?

5. If the answers to questions 3 and 4 are no, why is the defendant incompetent?

6. Is the person presently dangerous as defined in Section 1175.1 of this title if released?

Added by Laws 1980, c. 336, § 5, emerg. eff. June 25, 1980. Amended by Laws 2000, c. 421, § 6, eff. Nov. 1, 2000; Laws 2004, c. 106, § 4, eff. April 1, 2005; Laws 2019, c. 475, § 22, eff. Nov. 1, 2019.

§22-1175.6. Disposition orders - Placement in secure ward.

Upon the finding by the jury or the court as provided by Section 1175.5 of this title, the court shall issue the appropriate order regarding the person as follows:

1. If the person is found to be competent, the criminal proceedings shall be resumed;

2. If the person is found to be incompetent because the person is a person requiring treatment as defined in Title 43A of the Oklahoma Statutes, the court shall issue the appropriate order as set forth in Section 1175.6a of this title;

3. If the person is found to be incompetent because the person is intellectually disabled as defined in Section 1408 of Title 10 of the Oklahoma Statutes, the court shall issue the appropriate order as set forth in Section 1175.6b of this title; and

4. If the person is found to be incompetent for reasons other than the person is a person requiring treatment as defined by Section 1-103 of Title 43A of the Oklahoma Statutes, or for reasons other than the person is intellectually disabled as defined in Section 1408 of Title 10 of the Oklahoma Statutes, the court shall issue the appropriate order as set forth in Section 1175.6c of this title.

Added by Laws 1980, c. 336, § 6, emerg. eff. June 25, 1980. Amended by Laws 1983, c. 104, § 2, eff. Nov. 1, 1983; Laws 1989, c. 75, § 1, emerg. eff. April 17, 1989; Laws 1989, c. 348, § 17, eff. Nov. 1, 1989; Laws 1990, c. 51, § 18, emerg. eff. April 9, 1990; Laws 1997, c. 407, § 6, eff. Nov. 1, 1997; Laws 2000, c. 421, § 7, eff. Nov. 1, 2000; Laws 2004, c. 106, § 5, eff. April 1, 2005; Laws 2019, c. 475, § 23, eff. Nov. 1, 2019.

§22-1175.6a. Person capable of achieving competence within reasonable time - Suspension of criminal proceedings - Civil commitment.

A. If the person is found to be incompetent prior to conviction because he or she is a person requiring treatment as defined in

Section 1-103 of Title 43A of the Oklahoma Statutes, but capable of achieving competence with treatment within a reasonable period of time as defined by Section 1175.1 of this title, the court shall suspend the criminal proceedings and order the Department of Mental Health and Substance Abuse Services to provide treatment, therapy or training which is calculated to allow the person to achieve competency. The Department may designate a willing entity to provide such competency restoration services on behalf of the Department, provided the entity has qualified personnel. The court shall further order the Department to take custody of the individual as soon as a forensic bed becomes available, unless both the Department and the county jail where the person is being held determine that it is in the best interests of the person to remain in the county jail. Such competency restoration services shall begin within a reasonable period of time after the court has determined that the person is not competent to stand trial.

The person shall remain in the custody of the county jail until such time as the Department has a bed available at the forensic facility unless competency restoration services are provided by a designee of the Department, in which case custody of the person shall be transferred to the Department.

B. The Department of Mental Health and Substance Abuse Services or designee shall make periodic reports to the court as to the competency of the defendant.

C. If the person is determined by the Department of Mental Health and Substance Abuse Services or designee to have regained competency, or is no longer incompetent because the person is a person requiring treatment as defined by Title 43A of the Oklahoma Statutes, a hearing shall be scheduled within twenty (20) days:

1. If found competent by the court or a jury after such rehearing, criminal proceedings shall be resumed;

2. If the person is found to continue to be incompetent because the person is a person requiring treatment as defined in Title 43A of the Oklahoma Statutes, the person shall be returned to the custody of the Department of Mental Health and Substance Abuse Services or designee;

3. If the person is found to be incompetent because the person is intellectually disabled as defined by Title 10 of the Oklahoma Statutes, the court shall issue the appropriate order as set forth in Section 1175.6b of this title;

4. If the person is found to be incompetent for reasons other than the person is a person requiring treatment as defined by Title 43A of the Oklahoma Statutes, and other than the person is intellectually disabled as defined in Title 10 of the Oklahoma Statutes, and is also found to be not dangerous as defined by Section 1175.1 of this title, the court shall issue the appropriate order as set forth in Section 1175.6b of this title; or

5. If the person is found to be incompetent for reasons other than the person is a person requiring treatment as defined by Title 43A of the Oklahoma Statutes, and other than the person is intellectually disabled as defined in Title 10 of the Oklahoma Statutes, but is also found to be dangerous as defined by Section 1175.1 of this title, the court shall issue the appropriate order as set forth in Section 1175.6c of this title.

D. If the person is found to be incompetent because the person is a person requiring treatment as defined by Section 1-103 of Title 43A of the Oklahoma Statutes, but not capable of achieving competence with treatment within a reasonable period of time as defined by Section 1175.1 of this title, the court shall commence civil commitment proceedings pursuant to Title 43A and shall dismiss without prejudice the criminal proceeding. If the person is subsequently committed to the Department of Mental Health and Substance Abuse Services pursuant to Title 43A, the statute of limitations for the criminal charges which were dismissed by the court shall be tolled until the person is discharged from the Department of Mental Health and Substance Abuse Services pursuant to Section 7-101 of Title 43A of the Oklahoma Statutes.
Added by Laws 2004, c. 106, § 6, eff. April 1, 2005. Amended by Laws 2015, c. 300, § 2, emerg. eff. May 11, 2015; Laws 2018, c. 290, § 2, emerg. eff. May 10, 2018; Laws 2019, c. 475, § 24, eff. Nov. 1, 2019.

§22-1175.6b. Incompetence due to intellectual disability - Suspension of criminal proceedings - Placement - Conditional release.

A. If the person is found to be incompetent primarily because the person is intellectually disabled as defined in Section 1408 of Title 10 of the Oklahoma Statutes, and is also found by the court to be dangerous as defined by Section 1175.1 of this title, the court shall suspend the criminal proceedings, and shall place the person into the custody of the Office of Public Guardian. The Office of Public Guardian shall act with all powers set forth in the Oklahoma Public Guardianship Act, and:

1. The Office of Public Guardian shall place any person placed in its custody under this title in a facility or residential setting, private or public, willing to accept the individual and that has a level of supervision and security that is appropriate to the needs of the person;

2. Such placements shall be within the sole discretion of the Office of Public Guardian;

3. All such placements made by the Office of Public Guardian shall be made within six (6) months of the date of the order awarding custody to the Office of Public Guardian;

4. The Office of Public Guardian shall report to the court at least every six (6) months as to the status of the person including, but not limited to, the type of placement, services provided, level

of supervision, the medical and psychological health of the person, whether the person would be dangerous if conditionally released into a nonsecure environment, the assistance and services that would be required for such conditional release and whether the person has achieved competency;

5. If the person is determined by the Office of Public Guardian to have regained competency or that conditional release to a private guardian or other caretaker is appropriate, a hearing shall be scheduled within twenty (20) days. If found competent by the court or a jury after such rehearing, criminal proceedings shall be resumed. If the court finds conditional release to be appropriate, the court shall make an appropriate order for conditional release; and

6. The provisions of subsections C, H and I of Section 6-101 of Title 30 of the Oklahoma Statutes shall not apply to custody orders arising under this title.

B. If the person is found to be incompetent for reasons other than the person is a person requiring treatment as defined by Section 1-103 of Title 43A of the Oklahoma Statutes and is found to be not dangerous as defined by Section 1175.1 of this title, the court shall suspend the criminal proceedings and either refer the person to the Department of Human Services for consideration of voluntary assistance or conditionally release the person as set forth in this section.

1. For any person recommended for conditional release, a written plan for services shall be prepared by the Department of Human Services and filed with the court. In its order of conditional release, the court shall specify the conditions of release and shall direct the appropriate agencies or persons to submit annual reports regarding the person's compliance with the conditions of release and progress:

a. to be eligible for conditional release, the person shall agree, in writing, that during the period the person is granted conditional release and is subject to the provisions thereof, there shall be free transmission of all pertinent information, including clinical information regarding the person, among the person's treatment providers, the appropriate district attorneys, law enforcement and court personnel. To effect this agreement, the person shall execute any releases required by law to allow for the dissemination of this information,

b. the court's order placing the person on conditional release shall include notice that the person's conditional release may be revoked upon good cause,

c. the district attorney, as well as any agency or individual involved in providing services with regard

to the person's conditional release, may prepare and file an affidavit under oath if the district attorney, agency, or individual believes that the person has failed to comply with the conditions of release. The court shall then conduct a hearing to determine if the person has violated the conditions of release. Notice of the hearing shall be issued, at least twenty-four (24) hours before the hearing, to the Department of Human Services, the person, trial counsel for the person, and the client advocate general of the Department of Human Services. After reviewing the evidence concerning any alleged violation of the conditions of the release, the person's progress, treatment alternatives, and the need for public safety, the court may order no change to the conditions for the person's release or modify the conditions of release, and

d. the person placed on conditional release shall remain in a conditional release status until the reviewing court issues a full release from all conditions.

2. If the person is determined by the Department of Human Services to have regained competency, a hearing shall be scheduled within twenty (20) days:

a. if found competent by the court or a jury after such rehearing, criminal proceedings shall be resumed,

b. if the person is found to continue to be incompetent, the person shall be returned to either conditional release or referred to the Department of Human Services for consideration of voluntary assistance.

Added by Laws 2004, c. 106, § 7, eff. April 1, 2005. Amended by Laws 2019, c. 475, § 25, eff. Nov. 1, 2019.

§22-1175.6c. Person incompetent for reasons other than needed treatment or due to intellectual disability - Dangerous to self or others - Placement.

A. If the person is found to be incompetent for reasons other than the person is a person requiring treatment as defined by Title 43A of the Oklahoma Statutes, or the person is intellectually disabled as defined by Title 10 of the Oklahoma Statutes, but is also found to be dangerous as defined by Section 1175.1 of this title, the court shall suspend the criminal proceedings and refer the matter to the Department of Human Services and Department of Mental Health and Substance Abuse Services for determination of appropriate placement.

B. The Department of Human Services and the Department of Mental Health and Substance Abuse Services shall jointly establish procedures by April 1, 2005, to determine the appropriate placement of individuals who are found to be incompetent to stand trial for

reasons other than the person is a person requiring treatment as defined by Title 43A of the Oklahoma Statutes, or the person is intellectually disabled as defined by Title 10 of the Oklahoma Statutes. Both agencies shall then submit their joint recommendation to the court for determination of appropriate placement.
Added by Laws 2004, c. 106, § 8, eff. April 1, 2005. Amended by Laws 2019, c. 475, § 26, eff. Nov. 1, 2019.

§22-1175.7. Persons incompetent but capable of achieving competency within reasonable time - Treatment order - Medical supervisor - Commitment - Private treatment - Involuntary commitment to Department of Human Services prohibited.

A. If the person is found incompetent, but capable of achieving competency within a reasonable period of time, as defined by the court, the court shall order such person to undergo such treatment, therapy or training which is calculated to allow the person to achieve competence.

B. If the person is not committed to the custody of the Department of Mental Health and Substance Abuse Services, the court shall appoint a medical supervisor for a course of treatment. The medical supervisor of treatment may be any person or agency that agrees to supervise the course of treatment. The proposed treatment may be either inpatient or outpatient care depending on the facilities and resources available to the court and the type of disability sought to be corrected by the court's order. The court shall require the supervisor to provide periodic progress reports to the court and may pay for the services of the medical supervisor from court funds.

C. The court may not commit the incompetent person to the custody of the Department of Mental Health and Substance Abuse Services unless the person is a person requiring treatment as defined by Title 43A of the Oklahoma Statutes.

D. The court may allow the person to receive treatment from private facilities if such facilities are willing, and neither the state nor the court fund is required to directly pay for such care.

E. In no event shall an incompetent individual be involuntarily committed to the legal custody of the Department of Human Services or any of its facilities.
Added by Laws 1980, c. 336, § 7, emerg. eff. June 25, 1980. Amended by Laws 1990, c. 51, § 19, emerg. eff. April 9, 1990; Laws 1997, c. 407, § 7, eff. Nov. 1, 1997; Laws 2000, c. 421, § 8, eff. Nov. 1, 2000; Laws 2015, c. 300, § 3, emerg. eff. May 11, 2015.

§22-1175.8. Resumption of competency.

If the medical supervisor reports that the person appears to have achieved competency after a finding of incompetency, the court shall hold another competency hearing to determine if the person has

achieved competency. If competency has been achieved, the criminal proceedings shall be resumed.
Laws 1980, c. 336, § 8, emerg. eff. June 25, 1980.

§22-1176. Raising issue of mental illness or insanity at time of offense.

A. If the defendant intends to raise the question of mental illness or insanity at the time of the offense, the defendant shall file notice with the court no later than thirty (30) days after formal arraignment. Additionally, if the defendant is financially unable to obtain the services of a qualified mental health professional, the defendant shall file an application with the court at the time of the filing of notice of insanity defense. The procedure to be followed for review of such an application will be the same as provided in Section 1175.3 of this title.

B. In cases not involving the appointment of the Oklahoma Indigent Defense System pursuant to Sections 1355 through 1370.1 of this title, if the court finds that the defendant's sanity at the time of the offense is to be a significant factor in his defense at trial and that the defendant is financially unable to obtain the services of a qualified mental health professional, the court shall provide the defendant with access to a qualified mental health professional by authorizing counsel to obtain the services of a qualified mental health professional to conduct an appropriate examination and assist in evaluation, preparation and presentation of the defense. Compensation for such services shall be paid by the court fund, as authorized by Section 1304 of Title 20 of the Oklahoma Statutes.

C. As used in this section, "qualified mental health professional" means an individual certified or licensed in this state to practice psychiatry, psychology, professional counseling, or social work.
Added by Laws 1985, c. 232, § 2, emerg. eff. July 8, 1985. Amended by Laws 1991, c. 238, § 36, eff. July 1, 1991; Laws 2009, c. 239, § 1, eff. Nov. 1, 2009.

§22-1181. Causes for removal of officers.

Any officer not subject to impeachment elected or appointed to any state, county, township, city, town, or other office under the laws of the state may, in the manner provided in this article, be removed from office for any of the following causes:

First. Habitual or willful neglect of duty.

Second. Gross partiality in office.

Third. Oppression in office.

Fourth. Corruption in office.

Fifth. Extortion or willful overcharge of fees in office.

Sixth. Willful maladministration.

Seventh. Habitual drunkenness.

Eighth. Failure to produce and account for all public funds and property in his hands, at any settlement or inspection authorized or required by law.

R.L.1910, § 5592.

§22-1181.1. Removal for acts of commission, omission, neglect.

All elective officers in the State of Oklahoma, including elective officers of the state and elective officers in each county, city, town or school district of the State of Oklahoma, but excluding any elective officers liable to impeachment, shall be subject to removal from office in such manner and for such causes as now provided by law, or as may be provided by law passed subsequent to this act, and any such officer or officers may be removed or ousted from office for any act or acts of commission or omission or neglect which may be committed, done or omitted during the term in which such ouster or removal proceedings may be filed, and any such officer or officers, may be removed or ousted from office for any act or acts of commission, omission or neglect committed, done or omitted during a previous or preceding term in such office.

Laws 1955, p. 200, § 1.

§22-1181.2. Allegations or charges.

The complaint, petition, accusation or proceeding for removal or ouster from office may include allegations or charges of any act or acts of commission, omission or neglect which may be committed, done or omitted during the term of office in which such ouster or removal proceeding may be filed, and may also include allegations or charges as to any act or acts of commission, omission or neglect committed, done or omitted during a previous or preceding term in such office.

Laws 1955, p. 200, § 2.

§22-1182. Accusation by grand jury.

An accusation in writing, charging such officer with any of the causes for removal mentioned in the first preceding section may be presented by the grand jury to the district court of the county in or for which the officer is elected or appointed: Provided, that in the case of a state officer, such accusation may be presented by the grand jury of the county in which such officer resides, or in which he has his place of office for the usual transaction of official business.

R.L.1910, § 5593.

§22-1183. Requisites of accusation.

The accusation must state the offense charged, in ordinary and concise language, without repetition, and in such manner as to enable a person of common understanding to know what is intended.

R.L.1910, § 5594.

§22-1184. Proceedings on accusation.

After receiving the accusation, the judge to whom it is delivered must forthwith cause it to be transmitted to the district attorney of the county or subdivision, except when he is the officer accused, who must cause a copy thereof to be served upon the defendant, and required by written notice of not less than five (5) days that he appear before the district court of the county or subdivision, and answer the accusation at a specified time. The original accusation must then be filed with the clerk of the court.
R.L.1910, § 5595.

§22-1185. Defendant to appear.

The defendant must appear at the time appointed in the notice, and answer the accusation, unless, for sufficient cause, the court assigns another day for that purpose. If he do not appear, the court may proceed to hear and determine the accusation in his absence.
R.L.1910, § 5596.

§22-1186. Requisites of answer.

The defendant may answer the accusation either by objecting to the sufficiency thereof, or of any article therein, or by denying the truth of the same.
R.L.1910, § 5597.

§22-1187. Objection to accusation.

If he object to the legal sufficiency of the accusation the objection must be in writing but need not be in any specific form, it being sufficient if it present intelligibly the ground of the objections.
R.L.1910, § 5598.

§22-1188. Denial of accusation.

If he deny the truth of the accusation the denial may be oral and without oath and must be entered upon the minutes.
R.L.1910, § 5599.

§22-1189. Defendant to answer, when.

If an objection to the sufficiency of the accusation be not sustained the defendant must answer the accusation forthwith.
R.L.1910, § 5600.

§22-1190. Judgment of conviction or trial.

If the defendant plead guilty, or refuse to answer the accusation the court must render judgment of conviction against him. If he deny the matters charged, the court must proceed to try the accusation.

R.L.1910, § 5601.

§22-1191. Method of trial.

The trial must be by jury and conducted in all respects in the same manner as the trial of an indictment for a misdemeanor.
R.L.1910, § 5602.

§22-1192. Removal if convicted.

Upon a conviction, the court must pronounce judgment, that the defendant be removed from office. But to warrant a removal, the judgment must be entered upon the minutes, assigning therein the causes of removal.
R.L.1910, § 5603.

§22-1193. Accusation against district attorney.

In case an accusation is presented against the district attorney, the same shall be delivered by the judge to the clerk of his court, and by the clerk to such person as the judge shall appoint to act as prosecuting officer in the matter, and the person so appointed shall be authorized and required to conduct the proceedings.
R.L.1910, § 5604.

§22-1194. County commissioners or judge and treasurer may present accusation, when - Proceedings.

The board of county commissioners may, in the case of any county or township officer, present such accusation and bring an action in the name of the county for the removal of such officer, and the district court shall have exclusive jurisdiction thereof; but if any county commissioner is the party charged, then the county judge and county treasurer shall present such accusation and bring the action. The proceedings, in actions brought under the provisions of this section shall, except as provided in the two next succeeding sections, be as is provided in the preceding sections of this article.
R.L.1910, § 5605.

§22-1195. Suspension from office - Time for trial - Change of judge or venue - Continuances - Filling vacancy temporarily - Voluntary suspension of county officers.

(1) When the complaint for removal is filed, if, in addition to the matter charged as ground for removal, the complaint shall also pray that the officer charged be suspended from office pending the investigation, the judge of the court may, if sufficient cause appear from the charge or from the testimony, or affidavits then presented, order the suspension of the accused from the functions of his office until the determination of the matter. If the order of suspension be made and the court be then in session, the accused shall be entitled

to a trial within ten (10) days, if he demands it. If the court be not in session, then the accused shall be entitled to a trial on the first day of the next term. The accused shall have the right to change of judge, or to a change of venue, on application to the court, or to the judge if the court be not in session, on making the showing required to change the venue in a criminal case, and if the application be allowed the matter shall be sent for trial to the nearest adjoining county, and in which the objections stated as ground of change do not exist, and trial shall be there had at the earliest possible date. But one such change shall be allowed. The accused shall be entitled to continuance, as in other cases. If the accused be not suspended from his office, then the complainant may have a continuance, as in other criminal cases. If a suspension take place, the board of county commissioners may temporarily fill the office by appointment, but if the officer suspended be a county commissioner, then the vacancy shall be filled by temporary appointment made by the Governor.

(2) A county officer, other than a county commissioner, against whom a complaint for removal has been filed, may voluntarily suspend himself from office by filing an election of suspension at any time after such complaint has been filed with the board of county commissioners, which board shall temporarily fill the office by appointment. If the officer be a county commissioner, then such filing shall be made with the Governor of the State of Oklahoma, who shall temporarily fill the office by appointment. If upon trial such officer is found guilty, such temporary appointment shall remain in effect until a successor is duly qualified as provided by law, but if such officer is acquitted, such temporary appointment shall expire at that time, and the person so acquitted shall immediately resume his office.

R.L.1910 § 5606; Laws 1968, c. 129, § 1, emerg. eff. April 8, 1968.

§22-1196. Judgment of removal.

The question of fact shall be tried as in other actions, and if the accused is found guilty, the judgment shall be entered removing the officer from his office and declaring the latter vacant, or as provided for in the code of criminal procedure, and a copy thereof shall be certified to the board of county commissioners, and the county clerk shall enter the same upon the proper record.

R.L.1910, § 5607.

§22-1197. Members of legislature not affected.

This article shall not apply to the manner of removing members of the Legislature.

R.L.1910, § 5608.

§22-1221. Search warrant defined.

A. A search warrant is an order in writing, in the name of the state, signed by a magistrate, directed to a peace officer, commanding him to search for personal property and bring it before the magistrate.

B. For purposes of Sections 1221 through 1241 of this title, the term "personal property" or "property" shall mean items and information that can be analyzed, seen, weighed, measured, felt or touched or that are in any other manner perceptible to the senses.
R.L. 1910, § 6059. Amended by Laws 2014, c. 75, § 1, eff. Nov. 1, 2014.

§22-1222. Grounds for issuance of search warrant - Seizure of property.

A search warrant may be issued and property seized upon any of the following grounds:

First: When the property was stolen or embezzled, in which case it may be taken on the warrant, from any house or other place in which it is concealed, or from the possession of the person by whom it was stolen or embezzled, or of any other person in whose possession it may be.

Second: When it was used as the means of committing a felony, in which case it may be taken on the warrant from any house or other place in which it is concealed, or from the possession of the person by whom it was used in the commission of the offense, or of any other person in whose possession it may be.

Third: When it is in the possession of any person, with the intent to use it as the means of committing a public offense, or in the possession of another to whom the person may have delivered it for the purpose of concealing it or preventing its being discovered, in which case it may be taken on the warrant from such person, or from a house or other place occupied by the person, or under the person’s control, or from the possession of the person to whom the person may have so delivered it.

Fourth: When the property constitutes evidence that an offense was committed or that a particular person participated in the commission of an offense.

Fifth: When there is probable cause to believe that, at a future time, the property or items sought which are intended to be used to commit a public offense, will be located at a particular place. Under such circumstances, the magistrate shall insert a direction in the search warrant making execution of the warrant contingent upon the happening of an event which evidences probable cause that the item to be seized is in the place to be searched.

Sixth: As authorized by any provision of the Security of Communications Act.
R.L.1910, § 6060. Amended by Laws 1969, c. 223, § 1, emerg. eff. April 21, 1969; Laws 2007, c. 358, § 9, eff. July 1, 2007.

§22-1223. Probable cause must be shown.

A search warrant shall not be issued except upon probable cause, supported by affidavit, naming or describing the person, and particularly describing the property and the place to be searched.
R.L.1910, § 6061.

§22-1223.1. Electronically recorded oral statement - Transcription.

A magistrate may take an oral statement under oath which shall at that time be recorded electronically and thereafter transcribed by an official court reporter. The original recording and transcription thereof shall become a part of and kept with the official records of the case. The transcribed statement shall be deemed to be an affidavit for the purposes of this section and Section 1223 of Title 22 of the Oklahoma Statutes.

In such cases, the magistrate and the official court reporter shall sign the transcription of the recording of the sworn statement. Thereafter, the transcript shall be filed with the clerk of the district court along with the original recording.
Added by Laws 1982, c. 224, § 1.

§22-1224.1. Oral testimony supplemental to affidavit.

Before issuing a search warrant the judge may take oral testimony, sworn to under oath, supplemental to any affidavits. Provided, however, that such oral testimony shall be recorded, such record transcribed forthwith, and filed with the affidavits to support the search warrant.
Laws 1971, c. 120, § 1, emerg. eff. May 3, 1971.

§22-1224.2. Filing and indexing of documents.

In the event the search warrant is executed, then the search warrant, affidavit for search warrant, return of search warrant, if separate, and transcript of oral testimony, if any, shall be filed with the clerk of the district court, and shall be indexed by the clerk in alphabetical order. Upon a criminal prosecution being filed, the district attorney shall make application for a court order that the documents be transferred and filed in the case.
Added by Laws 1971, c. 120, § 4, emerg. eff. May 3, 1971. Amended by Laws 2001, c. 404, § 4, eff. Nov. 1, 2001.

§22-1225. Requisites of search warrant - Issuing magistrate.

A. If a magistrate be thereupon satisfied of the existence of grounds of the application, or that there is probable cause to believe their existence, he must issue a search warrant, signed by him, with his name of office, to a peace officer of this state, commanding him forthwith to search the person or place named, for the property specified, and to bring it before the magistrate, and also

to arrest the person in whose possession the same may be found, to be dealt with according to law.

B. In addition to any other procedure authorized by law, a proposed search warrant, affidavit or both search warrant and affidavit may be communicated to the magistrate by telephone or by electronic mail or any similar electronic communication which delivers a complete printable image of the warrant or affidavit.

1. If the proposed search warrant is communicated telephonically, the affiant shall:

a. recite information establishing probable cause to support issuance of the search warrant, and

b. recite the proposed search warrant to the magistrate verbatim and obtain the oral permission of the magistrate to print the name of the magistrate on the search warrant along with the date and time of the signature.

The oral recorded authorization of the magistrate to print the name of the magistrate on the search warrant shall constitute issuance of the search warrant under this section. The conversation establishing probable cause, reciting the contents of the search warrant verbatim and any authorization to sign by the magistrate shall be audio-recorded, transcribed and filed together with the warrant in accordance with Section 1223.1 of this title.

2. If communication of the proposed affidavit is made by electronic mail or other electronic communication, the affidavit may contain a notarized acknowledgement or the affiant may swear to the affidavit by telephone. A magistrate administering an oath telephonically shall endorse upon the face of the affidavit the date and time which the affiant undertook the oath by telephone.

a. A warrant may be issued by the magistrate pursuant to this subsection by physically signing a printed copy of the affidavit and proposed warrant and transmitting said documents back to the affiant by electronic mail or other electronic communication. The printed copy received by the affiant shall constitute a search warrant and be executed as such. After execution, the search warrant shall be filed along with the printed copy of the affidavit received by the affiant, as provided for in Section 1233 of this title.

b. A magistrate may also issue a warrant pursuant to this paragraph without printing and signing a physical copy of the affidavit and warrant by return electronic communication to the affiant authorizing issuance of the warrant as submitted, or as modified by the magistrate, provided a copy of the modified document is included with the return electronic communication to the affiant.

C. A search warrant authorized by this section may be issued by any magistrate for a search of a person or property within the judicial district in which the magistrate presides or outside the judicial district if there was probable cause to believe the property was within the judicial district when the warrant was sought, but moved outside the judicial district before the warrant was executed.
R.L. 1910, § 6063. Amended by Laws 1982, c. 224, § 2; Laws 1990, c. 290, § 1, eff. Sept. 1, 1990; Laws 2014, c. 75, § 2, eff. Nov. 1, 2014.

§22-1226. Form of search warrant.

The warrant must be in substantially the following form:

County of _____

In the name of the State of Oklahoma. To any peace officer of this state.

Probable cause having been shown on this date before me, by (name every officer and person who has made affidavit or given oral testimony supplementing an affidavit) for believing the following property (describe the property) is located at (specify the location where the property is shown to be).

You are therefore commanded, in the daytime (or "at any time of the day or night," as the case may be, according to Section 1230, as amended, of Title 22 of the Oklahoma Statutes), to make immediate search on the person of C.D. (or "in the house situated," describing it, or any other place to be searched, with reasonable particularity, as the case may be), for the following property (describing it with reasonable particularity), and if you find the same, or any part thereof to bring it forthwith before me, at (stating the place) or before a magistrate who presides in the judicial district in which the property was found and seized.

Dated at _____ the _____ day of _____, 19___.

_____
(Signature of Judge)

_____
(Judge's Official Designation)
R.L.1910, § 6064; Laws 1971, c. 120, § 2, emerg. eff. May 3, 1971. Amended by Laws 1990, c. 290, § 2, eff. Sept. 1, 1990.

§22-1227. Service of search warrant.

A search warrant may in all cases be served by any of the officers mentioned in its direction, but by no other person except in aid of the officer, on his requiring it, he being present, and acting in its execution.
R.L. 1910, § 6065.

§22-1228. Execution of search warrant without warning or notice – Forced entry – Exigent circumstances.

A peace officer may break open an outer or inner door or window of a house, or any part of the house, or anything therein, to execute the warrant when:

1. The officer has been refused admittance after having first given notice of his authority and purpose; or

2. Pursuant to an instruction inserted in the search warrant by the magistrate that no warning or other notice of entry is necessary because there is reasonable cause to believe that exigent circumstances exist. Exigent circumstances include:

a. such warning or other notice would pose a significant danger to human life,

b. such warning or other notice would allow the possible destruction of evidence,

c. such warning or other notice would give rise to the possibility of resistance or escape,

d. such warning or other notice would otherwise inhibit the effective investigation of the crime, or

e. such warning or other notice would be futile or a useless gesture.

R.L.1910, § 6066. Amended by Laws 1990, c. 290, § 3, eff. Sept. 1, 1990; Laws 1999, c. 128, § 1, eff. Nov. 1, 1999.

§22-1229. Execution of search warrant - Liberating person detained.

He may break open any outer or inner door or window of a house for the purpose of liberating a person who, having entered to aid him in the execution of the warrant, is detained therein, or when necessary for his own liberation.

R.L.1910, § 6067.

§22-1230. When search warrant may be served.

Search warrants for occupied dwellings shall be served between the hours of six o'clock a.m. and ten o'clock p.m., inclusive, unless the judge finds the existence of at least one of the following circumstances:

1. The evidence is located on the premises only between the hours of ten o'clock p.m. and six o'clock a.m.;

2. The search to be performed is a crime scene search;

3. The affidavits be positive that the property is on the person, or in the place to be searched and the judge finds that there is likelihood that the property named in the search warrant will be destroyed, moved or concealed; or

4. The search to be performed is a search for evidence relating to the illegal manufacture of methamphetamine or other controlled dangerous substance.

If any of the above criteria are met the judge may insert a direction that the warrant be served at any time of the day or night.

Search warrants for sites other than occupied dwellings may be served at any time of the day or night without a special direction.
R.L. 1910, § 6068. Amended by Laws 1971, c. 120, § 3, emerg. eff. May 3, 1971; Laws 1990, c. 148, § 2, emerg. eff. May 1, 1990; Laws 1996, c. 15, § 1, eff. Nov. 1, 1996; Laws 2005, c. 353, § 1, eff. Nov. 1, 2005.
NOTE: Laws 2005, c. 426, § 3 repealed by Laws 2006, c. 16, § 5, emerg. eff. March 29, 2006.

§22-1231. Search warrant void after ten days – Forensic, scientific, or digital analysis exception.

A search warrant must be executed and returned to the magistrate by whom it is issued within ten (10) days. After the expiration of these times respectively, the warrant, unless executed, is void. Provided, if the search warrant authorizes a forensic, scientific or digital analysis of items or samples already in the custody of law enforcement, the search shall be commenced within a reasonable time and the return shall be made within ten (10) days following the completion of said search.
R.L. 1910, § 6069. Amended by Laws 2014, c. 75, § 3, eff. Nov. 1, 2014.

§22-1232. Disposition of property recovered.

When the property is delivered to the magistrate, he must, if it was stolen or embezzled, deliver it to the owner on satisfactory proof of his title, and on his paying the necessary expenses incurred in its preservation, to be certified by the magistrate. If it were taken on a warrant issued on the grounds stated in the second and third subdivisions of the second section of this article, he must retain it in his possession, subject to the order of the court to which he is required to return the proceedings before him, or of any other court in which the offense, in respect to which the property was taken, is triable.
R.L.1910, § 6070.

§22-1233. Return of search warrant.

Any peace officer who executes a search warrant must forthwith return the warrant to the magistrate who authorized the warrant or to a magistrate who presides in the judicial district in which the property was found and seized together with a written inventory of the property taken, which shall be made publicly, or in the presence of the person from whose possession it was taken and of the applicant for the warrant, if they be present, verified by the affidavit of the officer, and taken before the magistrate, to the following effect:

I, A. B., the officer by whom this warrant was executed, do swear that the above inventory contains a true and detailed account of all the property taken by me on the warrant.

R.L.1910, § 6071. Amended by Laws 1990, c. 290, § 4, eff. Sept. 1, 1990.

§22-1234. Inventory to be furnished, when.

The magistrate must thereupon, if required, deliver a copy of the inventory to the person from whose possession the property was taken, and to the applicant for the warrant.
R.L.1910, § 6072.

§22-1235. Hearing on issuance of warrant.

If the grounds on which the warrant was issued be controverted, the magistrate must proceed to take testimony in relation thereto.
R.L.1910, § 6073.

§22-1236. Testimony on hearing for warrant.

The testimony given by each witness must be reduced to writing and authenticated in the manner as in preliminary examinations.
R.L.1910, § 6074.

§22-1237. Restoration of property to person searched.

If it appears that the property taken is not the same as that described in the warrant, or that there is no probable cause for believing the existence of the grounds on which the warrant was issued, the magistrate must cause it to be restored to the person from whom it was taken.
R.L.1910, § 6075.

§22-1238. Papers returned to district court.

The magistrate must annex together the depositions, the search warrant and return, and the inventory, and then return them to the next district court of the county having power to inquire into the offense in respect to which the search warrant was issued by the intervention of a grand jury at or before its opening on the first day.
R.L.1910, § 6076.

§22-1239. Procuring search warrant without cause.

A person who maliciously and without probable cause procures a search warrant to be issued and executed is guilty of a misdemeanor.
R.L.1910, § 6077.

§22-1240. Officer exceeding his authority.

A peace officer in executing a search warrant, who willfully exceeds his authority, or exercises it with unnecessary severity, is guilty of a misdemeanor.
R.L.1910, § 6078.

§22-1241. Search of defendant for weapons or evidence.

When a person charged with a felony is supposed by the magistrate before whom he is brought to have upon his person a dangerous weapon or anything which may be used as evidence of the commission of the offense, the magistrate may direct him to be searched in his presence, and the weapon or other thing to be retained, subject to his order or the order of the court in which the defendant may be tried.

R.L.1910, § 6079.

§22-1261. Seized property - Report and disposition.

In all cases where wines, whiskey, beer or other intoxicating liquors mentioned in the Constitution or laws of this state or any personal property used for the purpose of violating any of the prohibitory liquor laws or gambling laws of this state, shall be seized by any officer or person with or without a search warrant, such officer or person is hereby required within five (5) days to make a written report under oath and file the same with the court clerk of the proper or respective county where the same shall be so seized, which report shall in detail state the name of the officer or person making the seizure, the place where seized and an inventory of the property, articles or intoxicating liquors so taken into possession, and within said five (5) days said person is hereby required to deliver the same to the sheriff of the county and take the sheriff's receipt therefor, in duplicate and such sheriff shall retain the same and all thereof, until the same shall be destroyed pursuant to the orders of the court. In computing the time, five (5) days, Sundays and holidays shall be excluded and not counted. A duplicate copy of said receipt shall immediately be filed with said court clerk, who shall keep a record of same, provided the sheriff and his deputies shall be required to make the affidavit and issue the receipt and otherwise comply with the provisions of this act. Provided, that all liquors so seized shall be preserved for use as evidence in the trial of any action growing out of such seizure and all officers seizing any such liquors are hereby required to mark the bottles or containers for identification by writing thereon the date of the seizure and the name of the person from whom seized. The sheriff shall be liable on his bond for the safe keeping of all such property so turned over to him under the provisions of this act.

Added by Laws 1919, c. 19, p. 35, § 1, emerg. eff. March 15, 1919. Amended by Laws 2011, c. 66, § 1, eff. Nov. 1, 2011.

§22-1262. Seized property - Officer guilty of penalty, when.

Any officer failing to comply with Section One of this act shall be guilty of a misdemeanor and upon conviction shall be fined not less than Twenty-five Dollars ($25.00) or more than One Hundred

Dollars ($100.00), and imprisoned in the county jail not less than thirty (30) days or more than sixty (60) days for each offense.
Laws 1919, c. 19, p. 36, § 2.

§22-1263. Penalty for sale of seized liquor by officer.

Any officer who shall sell, barter, give away, or otherwise dispose of any whiskey or any intoxicating liquor, including beer, so seized by order of the court, shall be guilty of a felony. A violation of any provision of this section shall be punished by a fine of not less than Fifty Dollars ($50.00), nor more than Two Thousand Dollars ($2,000.00), and imprisonment of not less than thirty (30) days in jail, nor more than five (5) years in the State Penitentiary.
Added by Laws 1919, c. 19, p. 36, § 3. Amended by Laws 1927, c. 14, p. 16, § 1; Laws 1997, c. 133, § 438, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 322, eff. July 1, 1999.
NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 438 from July 1, 1998, to July 1, 1999.

§22-1264. False affidavit by officer - Penalty.

Any officer willfully making a false affidavit, as provided in Section 1261 of this title, shall be guilty of the felony of perjury and, upon conviction therefor, shall be imprisoned in the State Penitentiary not less than two (2) years nor more than five (5) years for each offense.
Added by Laws 1919, c. 19, p. 36, § 4. Amended by Laws 1997, c. 133, § 439, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 323, eff. July 1, 1999.
NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 439 from July 1, 1998, to July 1, 1999.

§22-1271. Repealed by Laws 1992, c. 303, § 31, eff. July 1, 1992.

§22-1272. Affidavits or depositions need not be entitled.

It is not necessary to entitle an affidavit, or deposition in the action, whether taken before or after indictment; but if made without a title, or with an erroneous title, it is as valid and effectual for every purpose as if it were duly entitled, if it intelligibly refer to the proceedings, in which it is made.
R.L.1910, § 6125.

§22-1273. Informalities or errors not fatal if not prejudicial.

Neither a departure from the form or mode prescribed in this chapter in respect to any pleadings or proceedings, nor an error or mistake therein, renders it invalid, unless it has actually prejudiced the defendant or tended to his prejudice, in respect to a substantial right.

R.L.1910, § 6126.

§22-1274. Informer to pay costs, when.

If any informer, under a penal statute, to whom the penalty, or any part thereof, if recovered, is given, shall dismiss his suit or prosecution, or fail in the same, he shall pay all costs accruing on such suit or prosecution, unless he be an officer whose duty it is to commence the same.
R.L.1910, § 6133.

§22-1275. Clerk to keep record of indictments, informations and bonds.

The clerk of the district court shall keep a record in which all indictments, informations and bonds shall be entered and certified as true and correct copies of all original indictments, informations and bonds filed in his office, and whenever any such original indictment, information or bond filed with the clerk becomes either lost, destroyed or stolen, or for any other reason cannot be produced at the trial, a certified copy of the aforesaid record of such original indictment, information or bond shall be competent evidence and shall have the same validity and effect as the original thereof.
R.L.1910, § 6134.

§22-1276. Record of indictments, informations and bonds not public.

The record provided for in the preceding section shall be kept by the clerk as a private record and to be made public only in case the original indictment, information or bond becomes lost, stolen or cannot be found.
R.L.1910, § 6135.

§22-1277. Prosecutions of offenses committed by inmates of penal institutions - Habeas corpus - Costs, expenses, fees.

A. The Department of Corrections shall pay a fee as provided in subsection D of this section for criminal prosecutions conducted in any county where a penal institution or community correction center is located in this state when the prosecution involves:

1. A violation of any criminal law committed by any prisoner housed in any penal institution or community correction center of this state; or

2. A crime committed in furtherance of an escape, flight or concealment as a fugitive from any penal institution or community correction center of this state.

B. The provisions of subsection A of this section shall apply whether the prisoner is confined or permitted to be at large as a trusty or otherwise. Provided, however, the provisions of subsection A of this section shall not apply to inmates incarcerated in any

correctional facility which is not operated by or under contract with the Oklahoma Department of Corrections.

C. The cost of any habeas corpus proceedings instituted by any prisoner of any penal institution or community correction center which is operated by or under contract with this state shall be paid by the Department of Corrections out of any funds provided for the support and maintenance of the institution of which the person committing such crime, or instituting such habeas corpus proceedings, is a prisoner, upon the filing of a verified and itemized claim from the court clerk of the county where the proceedings were held.

D. The Department of Corrections shall pay a fee of Two Hundred Dollars ($200.00) upon the filing of a criminal action pursuant to the provisions of paragraph 1 or 2 of subsection A of this section, and an additional fee of Three Hundred Dollars ($300.00) upon acquittal or conviction of each such prisoner prosecuted, regardless of the number of charges or counts which arise out of the same incident. The fee shall be paid to the district court fund of the county where the action arose. The fee shall be in lieu of any expenses authorized by law for a criminal prosecution and chargeable against the Department of Corrections. The fee shall be paid at the conclusion of the prosecution and upon a proper invoice by the court clerk to the Department. Failure to pay the cost shall not constitute grounds for dismissal of the criminal action.

E. Nothing in this section shall prohibit the court from ordering the costs and expenses of a criminal prosecution to be paid by the inmate or restrict the court clerk from collecting such costs and expenses from the inmate.

Added by Laws 1935, p. 20, § 1. Amended by Laws 1955, p. 201, § 1, emerg. eff. June 2, 1955; Laws 1957, p. 169, § 1, emerg. eff. May 28, 1957; Laws 1961, p. 238, § 1, emerg. eff. May 15, 1961; Laws 1986, c. 314, § 7, operative July 1, 1986; Laws 1992, c. 319, § 2, eff. Sept. 1, 1992; Laws 2002, c. 159, § 1, emerg. eff. April 29, 2002.

§22-1278. Interpreters for deaf mutes - Appointment - Oath - Compensation.

(a) In all criminal prosecutions, where the accused is a deaf mute, he shall have all of the proceedings of the trial interpreted to him in a language that he can understand by a qualified interpreter appointed by the court from a list of names submitted by the Oklahoma Association of the Deaf.

(b) In all cases where the mental condition of a person is being considered and where such person may be committed to a mental institution, and where such person is a deaf mute, all of the court proceedings, pertaining to him, shall be interpreted to him in a language that he understands by a qualified interpreter appointed by the court.

(c) Interpreters who shall be appointed under the terms of this act shall be required to take an oath that they will make a true interpretation to the person accused or being examined, which person is a deaf mute, of all the proceedings of his case in a language that he understands; and that he will repeat said deaf mute's answers to questions to council, court, or jury, in the English language, in his best skill and judgment.

(d) Interpreters appointed under the terms of this act shall be paid for their services a sum to be determined by the court.
Laws 1957, p. 169, § 1.

§22-1291. Repealed by Laws 2010, c. 226, § 9, eff. Nov. 1, 2010.

§22-1292. Repealed by Laws 2010, c. 226, § 9, eff. Nov. 1, 2010.

§22-1293. Repealed by Laws 2010, c. 226, § 9, eff. Nov. 1, 2010.

§22-1294. Repealed by Laws 2010, c. 226, § 9, eff. Nov. 1, 2010.

§22-1301. Information against corporation - Summons.

Upon an information against a corporation, the magistrate may issue a summons signed by him, with his name of office, requiring the corporation to appear before him at a specified time and place to answer the charge; the time to be not less than ten (10) days after the issuing of the summons.
R.L.1910, § 6117.

§22-1302. Form of summons.

The summons must be in substantially the following form:

County of .....

IN THE NAME OF THE STATE OF OKLAHOMA

To the (naming the corporation):

You are hereby summoned to appear before me at (naming the place), on (specifying the day and hour), to answer to the charge made against you, upon the information of A. B., or the presentment of the grand jury of the county of ..... for (designating the offense generally.)

Dated at the city, or town, of ..... , the ..... day of ..... 191.....

G..... H.....

Justice of the peace (as the case may be.)
R.L.1910, § 6118.

§22-1303. Service of summons.

The summons must be served at least five (5) days before the day of appearance fixed therein, by delivering a copy thereof and showing

the original to the president, or other head of the corporation, or to the secretary, cashier or managing agent thereof.
R.L.1910, § 6119.

§22-1304. Examination of charge.
At the time appointed in the summons, the magistrate must investigate the charge in the same manner as in the case of a natural person brought before him, so far as those proceedings are applicable.
R.L.1910, § 6120.

§22-1305. Certificate of magistrate after hearing.
After hearing the proofs the magistrate must certify upon the depositions, either that there is or is not sufficient cause to believe the corporation guilty of the offense charged, and must return the depositions and certificate in the same manner prescribed in the last section of the article (Section 5692 on preliminary examinations).
R.L.1910, § 6121.

§22-1306. Certificate of sufficient cause - Proceedings by grand jury or district attorney.
If the magistrate return a certificate that there is sufficient cause to believe the corporation guilty of the offense charged, the grand jury or district attorney may proceed thereon, as in the case of a natural person held to answer.
R.L.1910, § 6122.

§22-1307. Appearance and plea by corporation.
If an indictment or information be filed, the corporation may appear by counsel to answer the same. If they do not thus appear, a plea of not guilty must be entered, and the same proceedings had thereon as in other cases.
R.L.1910, § 6123.

§22-1308. Conviction of corporation - Fine collected, how.
When a fine is imposed upon a corporation, on conviction it may be collected, by virtue of the order imposing it, by the sheriff of the county, out of their real and personal property, in the same manner as upon an execution.
R.L.1910, § 6124.

§22-1321. Custody and return of stolen or embezzled property.
A. It is the intent of the Legislature that any stolen or embezzled money or other property held in custody of a municipality, county or the state in any criminal investigation, action or

proceeding be returned to the proper person or its lawful owner without unnecessary delay.

B. If the property coming into the custody of a municipal, county or state peace officer is not alleged to have been stolen or embezzled, the peace officer may return the property to the owner upon satisfactory proof of ownership. The notice and hearing provisions of this section shall not be required for return of the property specified in this section if there is no dispute concerning the ownership of the property. Within fifteen (15) days of the time the owner of the property is known, the peace officer shall notify the owner of the property that the property is in the custody of the peace officer. The property shall be returned to the owner upon request.

C. Except as otherwise provided for property that is pawned, when money or property alleged to have been stolen or embezzled, comes into the custody of a peace officer, the peace officer shall hold it subject to the order of the magistrate authorized by Section 1322 of this title to direct the disposal thereof. Within fifteen (15) days of the time the owner of the property is known, the peace officer shall notify the owner of the property that the property is in the custody of the peace officer. The peace officer shall make a good faith effort to locate and notify the owner of the property. If the peace officer has made a good faith effort to locate and notify the owner of the property and has been unable to locate or notify the owner, the peace officer shall release the property to the last person in possession of the property within fifteen (15) days after the peace officer determines that an owner cannot be located or notified, provided that the person who last had possession of the property shows proof that the person is a lawful possessor of the property. Such officer may provide a copy of a nonownership affidavit to the defendant to sign if the defendant is not claiming ownership of the money or property taken from the defendant and if the defendant has relinquished the right to remain silent. The affidavit is not admissible in any proceeding to ascertain the guilt or innocence of the defendant. A copy of this affidavit shall be provided to the defendant, and a copy shall be filed by the peace officer with the court clerk. Upon request, a copy of this affidavit shall be provided to any person claiming ownership of such money or property. The owner of the property or designated representative of the owner may make application to the magistrate for the return of the property. The application shall be on a form provided by the Administrative Director of the Courts and made available through the court clerk or the victim-witness coordinator. The court may charge the applicant a reasonable fee to defray the cost of filing and docketing the application. Once an application has been made and notice provided, the magistrate shall docket the application for a hearing as provided in this section. Where notice by publication is

appropriate, the publication notice form shall be provided free of charge to the applicant by the Administrative Director of the Courts through the court clerk or the victim-witness coordinator with instructions on how to obtain effective publication notice. The applicant shall notify the last person in possession of the property prior to the property being seized by the state of the hearing by mailing a copy of the notice by certified mail return receipt requested at the last-known address of the person, unless the person has signed a nonownership affidavit pursuant to this section disclaiming any ownership rights to the property. If the last person in possession of the property is unable to be served notice by certified mail, notice shall be provided by one publication in a newspaper of general circulation in the county where the property is held in custody. The applicant shall notify the district attorney and the court when notice has been served to the last person in possession of the property or published pursuant to this section. The hearing shall be held not less than ten (10) days or more than twenty (20) days after the court has been notified that the notice has been served or published. For the sole purpose of conducting a due process hearing to establish ownership of the property, "magistrate" as used in this section shall mean a judge of the district court, associate district judge, special judge or the judge of a municipal criminal court of record when established pursuant to Section 28-101 et seq. of Title 11 of the Oklahoma Statutes.

D. If the magistrate determines that the property is needed as evidence, the magistrate shall determine ownership and determine the procedure and time frame for future release. The magistrate may order the release of property needed as evidence pursuant to Section 1327 of this title, provided however, the order may require the owner to present the property at trial. The property shall be made available to the owner within ten (10) days of the court order for release. The magistrate may authorize ten (10) days additional time for the return of the exhibit if the district attorney shows cause that additional time is needed to photograph or mark the exhibit.

E. If the property is not needed as evidence, it may be released by the magistrate to the owner or designated representative of the owner upon satisfactory proof of ownership. The owner of the property or designated representative of the owner may make application to the magistrate for the return of the property. The applicant shall notify the last person in possession of the property prior to such property being seized by the state of the hearing by mailing a copy of the notice by certified mail return receipt requested at the last-known address of the person, unless the person has signed a nonownership affidavit pursuant to this section disclaiming any ownership rights to the property. If the last person in possession of the property is unable to be served notice by certified mail, notice shall be provided by one publication in a

newspaper of general circulation in the county where the property is held in custody. The applicant shall notify the district attorney and the court when notice has been served to the last person in possession of the property or published pursuant to this section. The hearing shall be held not less than ten (10) days or more than twenty (20) days after the court has been notified that the notice has been served or published.

F. The notice and hearing provisions of subsections C and E of this section shall not be required for return of the property specified in said subsections if:

1. There is no dispute concerning the ownership of the property;

2. The property is readily identifiable by the owner; and

3. The defendant has entered a plea of guilty or nolo contendere to the criminal charge, has executed a nonownership affidavit as provided by subsection C of this section or has been personally notified that the property will be returned to the owner and has failed to file an objection to such return within ten (10) days of being notified. The owner shall provide satisfactory proof of title to the property or sign an affidavit of ownership to be provided by the peace officer. The affidavit is not admissible in any proceeding to ascertain the guilt or innocence of the defendant. A copy of this affidavit shall be filed by the officer with the court clerk. The property shall then be returned to the owner.

G. When property alleged to have been stolen comes into the custody of a peace officer and the property is deemed to be perishable, the peace officer shall take such action as appropriate to temporarily preserve the property. However, within seventy-two (72) hours of the time the property was recovered, the receiving agency shall make application for a disposition hearing before a magistrate, and the receiving agency shall notify all persons known to have an interest in the property of the date, time and place of the hearing.

H. In any case, the magistrate may, for good cause shown, order any evidence or exhibit to be retained pending the outcome of any appeal.

I. Any time property comes into the custody of a municipality, a county, or this state as a result of any contact with any peace officer, criminal investigation or other situation where the return of the property is prohibited by any municipal, state or federal law or when the property has disputed ownership or multiple claimants, the municipality, county or state shall advise the claimant to file an application with the appropriate district court. Upon filing an application for a hearing, the claimant shall provide notice to all interested persons. At the hearing the court shall make a judicial determination as to the proper and lawful release of the property.

J. The application, notice and hearing provisions of subsection I of this section shall include, but are not limited to, all situations where the peace officer has reason to believe:

1. One of the persons asserting a right to the return of any firearm or other weapon is or was mentally or emotionally unstable or disturbed at the time the weapon was placed in custody or at the time of the request for the return of the weapon;

2. One of the persons asserting a right to the return of a firearm or other weapon is subject to a victim protection order that would preclude the return of any weapon as a matter of law;

3. One of the persons asserting a right to the return of any firearm or other weapon is under indictment or has been convicted of a felony;

4. One of the persons asserting a right to the return of any firearm or other weapon has a misdemeanor conviction for domestic abuse as defined by law;

5. The ownership of the property is unclear due to multiple claimants or disputes among heirs or next of kin for the property of the deceased; or

6. The return of the property could subject the municipality, the county, or this state to potential liability for its return.

R.L.1910, § 6127. Amended by Laws 1987, c. 174, § 3, operative July 1, 1987; Laws 1988, c. 178, § 1, eff. Nov. 1, 1988; Laws 1989, c. 348, § 18, eff. Nov. 1, 1989; Laws 1992, c. 83, § 1, eff. Sept. 1, 1992; Laws 1992, c. 280, § 1, eff. Sept. 1, 1992; Laws 1996, c. 161, § 3, eff. Nov. 1, 1996; Laws 2002, c. 443, § 1, eff. July 1, 2002.

§22-1322. Stolen property - Magistrate to order delivery, when.

On satisfactory proof of title to the property, the magistrate before whom the information is laid, or who examines the charge against the person accused of stealing or embezzling the property, may order it to be delivered to the owner on his paying the reasonable and necessary expenses incurred in its preservation, to be certified by the magistrate. The order entitles the owner to demand and receive the property. Such property shall be made available to the owner within ten (10) days of the issuance of the order. The court, however, may keep the property as evidence or on the issuance of an order, require the owner to present such property at trial.

Amended by Laws 1988, c. 178, § 2, eff. Nov. 1, 1988.

§22-1323. Magistrate to deliver stolen property, when.

If the property stolen or embezzled come into the custody of a magistrate, it must be delivered to the owner on satisfactory proof of his title, and on his paying the necessary expenses incurred in its preservation, to be certified by the magistrate.

R.L.1910, § 6129.

§22-1324. Trial court may deliver stolen property.

If property stolen or embezzled have not been delivered to the owner, the court before which a trial is had for stealing or embezzling it, may, on proof of his title, order it to be restored to the owner.

R.L.1910, § 6130.

§22-1325. Unclaimed property or money in possession of sheriff's office or campus police agency - Disposition - Procedure.

A. Any sheriff's office or campus police agency as authorized under the Oklahoma Campus Security Act is authorized to dispose of by public sale, destruction, donation, or transfer for use to a governmental subdivision personal property which has come into its possession, or deposit in a special fund, as hereafter provided, all money or legal tender of the United States which has come into its possession, whether the property or money be stolen, embezzled, lost, abandoned or otherwise, the owner of the property or money being unknown or not having claimed the same, and which the sheriff or campus police agency has held for at least six (6) months, and such property or money, or any part thereof, being no longer needed to be held as evidence or otherwise used in connection with any litigation.

B. Where personal property held under the circumstances provided in subsection A of this section is determined by the agency having custody to be unsuitable for disposition by public sale due to its condition or assessed by agency personnel as having limited or no resale value, it may be destroyed, discarded as solid waste or donated to a charitable organization designated by the U.S. Internal Revenue Service as a 501(c)(3) nonprofit organization. Where disposition by destruction, discard, or donation is made of personal property, a report describing the property by category and quantity, and indicating what disposition was made for each item or lot, shall be submitted to the presiding judge of the district court within ten (10) days following the disposition.

C. Where disposition by public sale is appropriate, the sheriff's office or campus police agency shall file an application in the district court of its county requesting the authority of the court to dispose of such personal property, and shall attach to the application a list describing the property, including all identifying numbers and marks, if any, the date the property came into the possession of the sheriff’s office or campus police agency and the name and address of the owner, if known. The court shall set the application for hearing not less than ten (10) days nor more than twenty (20) days after filing.

D. Written notice shall be given by the sheriff's office or campus police agency of the hearing to each and every owner known and as set forth in the application by first-class mail, postage prepaid, and directed to the last-known address of the owner at least ten (10)

days prior to the date of the hearing. The notice shall contain a brief description of the property of the owner and the place and date of the hearing. In addition, notice of the hearing shall be posted in three public places in the county, one being the county courthouse at the regular place assigned for the posting of legal notices or shall be published in a newspaper authorized by law to publish legal notices in the county in which the property is located. If no newspaper authorized by law to publish legal notices is published in such county, the notice shall be published in a newspaper of general circulation which is published in an adjoining county. The notice shall state the name of the owner being notified by publication and shall be published at least ten (10) days prior to the date of the hearing.

E. At the hearing, if no owner appears and establishes ownership to the property, the court shall enter an order authorizing the sheriff's office or campus police agency to donate property having a value of less than Five Hundred Dollars ($500.00) to a not-for-profit corporation as defined in Title 18 of the Oklahoma Statutes or to sell the personal property to the highest bidder for cash, after at least five (5) days of notice has been given by publication in one issue of a legal newspaper of the county. The sheriff's office or campus police agency shall make a return of the donation or sale and, when confirmed by the court, the order confirming the donation or sale shall vest in the recipient or purchaser title to the property so donated or purchased.

F. A sheriff's office having in its possession money or legal tender under the circumstances provided in subsection A of this section, prior to appropriating the same for deposit into a special fund, shall file an application in the district court of its county requesting the court to enter an order authorizing it to so appropriate the money for deposit in the special fund. The application shall describe the money or legal tender, together with serial numbers, if any, the date the same came into the possession of the sheriff's office or campus police agency, and the name and address of the owner, if known. Upon filing, the application, which may be joined with an application as described in subsection C of this section, shall be set for hearing not less than ten (10) days nor more than twenty (20) days from the filing thereof, and notice of the hearing shall be given as provided in subsection D of this section. The notice shall state that, upon no one appearing to prove ownership to the money or legal tender, the same will be ordered by the court to be deposited in the special fund by the sheriff's office or campus police agency. The notice may be combined with a notice to sell personal property as set forth in subsection D of this section. At the hearing, if no one appears to claim and prove ownership to the money or legal tender, the court shall order the same to be deposited

by the sheriff's office or campus police agency in the special fund, as provided in subsection H of this section.

G. Where a sheriff's office or campus police agency has in its possession under the circumstances provided in subsection A of this section, personal property deemed to have potential utility to that sheriff's office, campus police agency or another governmental subdivision, prior to appropriating the personal property for use, the sheriff's office or campus police agency shall file an application in the district court requesting the court to enter an order authorizing it to so appropriate or transfer the property for use. The application shall describe the property, together with serial numbers, if any, the date the property came into the possession of the sheriff's office or campus police agency and the name and address of the owner, if known. Upon filing, the application, which may be joined with an application as described in subsection C of this section, shall be set for hearing not less than ten (10) days nor more than twenty (20) days from the filing thereof. Notice of the hearing shall be given as provided in subsection D of this section. The notice shall state that, upon no one appearing to prove ownership to the personal property, the property will be ordered by the court to be delivered for use by the sheriff's office or campus police agency or its authorizing institution or transferred to another governmental subdivision for its use. The notice may be combined with a notice to sell personal property as set forth in subsection D of this section. At the hearing, if no one appears to claim and prove ownership to the personal property, the court shall order the property to be available for use by the sheriff's office or campus police agency or delivered to an appropriate person for use by the authorizing institution or another governmental subdivision.

H. The money received from the sale of personal property as above provided, after payment of the court costs and other expenses, if any, together with all money in possession of the sheriff's office or campus police agency, which has been ordered by the court to be deposited in the special fund, shall be deposited in such fund which shall be separately maintained by the sheriff's office in a special fund with the county treasurer or campus police agency to be expended upon the approval of the sheriff or head of the campus police agency for the purchase of equipment, materials or supplies that may be used in crime prevention, education, training or programming. The fund or any portion of it may be expended in paying the expenses of the sheriff or any duly authorized deputy or employee of the campus police agency to attend law enforcement or public safety training courses which are conducted by the Oklahoma Council on Law Enforcement Education and Training (CLEET) or other certified trainers, providers, or agencies.

I. The disposition of biological evidence, as defined by Section 1372 of this title, shall be governed by the provisions set forth in Section 1372 of this title.
R.L.1910, § 6131. Amended by Laws 1961, p. 329, § 1; Laws 1969, c. 227, § 1, emerg. eff. April 21, 1969; Laws 1973, c. 64, § 1, emerg. eff. April 27, 1973; Laws 1979, c. 98, § 1; Laws 1995, c. 45, § 2, eff. Nov. 1, 1995; Laws 1996, c. 199, § 3, eff. Nov. 1, 1996; Laws 2001, c. 52, § 2, eff. July 1, 2001; Laws 2009, c. 269, § 1, eff. Nov. 1, 2009.

§22-1326. Receipts for property taken from defendant.

When money or other property is taken from a defendant arrested upon a charge of public offense, the officer taking it must at the time give duplicate receipts therefor, specifying particularly the amount of money or the kind of property taken. One of which receipts he must deliver to the defendant, and the other of which he must file with the clerk of the court to which the depositions and statement must be sent, as provided in the last section of the chapter on preliminary examination, 6641.
R.L.1910, § 6132.

§22-1327. Disposition of exhibits.

A. All exhibits which have been introduced, filed, or held in custody of the state in any criminal action or proceeding may be disposed of as provided for in this section.

B. The court may, on application of the party entitled thereto, or an agent designated in writing by the owner, order all such exhibits, other than documentary exhibits, as may be released from the custody of the court or the state, without prejudice to the state, delivered to such party at any time after the final determination of the action or proceedings; provided, however, where the action or proceeding has resulted in an order granting probation, such delivery may be made any time after the final determination of an appeal of such order, or after the time for such appeal has elapsed. Provided, further, if the owner of such exhibit is the victim of the offense for which such exhibit is held, said owner may make application to the court at any time prior to the final disposition of the action or proceeding for the return of the exhibit. The applicant shall notify the last person in possession of such exhibit prior to such exhibit being seized by the state of the hearing by mailing a copy of the notice by certified mail return receipt requested at the last-known address of such person, unless such person has signed a nonownership affidavit pursuant to Section 1321 of this title disclaiming any ownership rights to such exhibit. If the last person in possession of the property is unable to be served notice by said certified mail, notice shall be provided by one publication in a newspaper of general circulation in the county where

the property is held in custody. The applicant shall notify the district attorney and the court when notice has been served to the last person in possession of such property or published pursuant to this section. The hearing shall be held not less than ten (10) days or more than twenty (20) days after the court has been notified that the notice has been served or published. In the event the court orders the release of said exhibit to the owner, the district attorney shall photograph or mark said exhibit with an identification number and return the exhibit to the owner within ten (10) days of the court order. The court may authorize ten (10) days additional time for the return of such exhibit if the district attorney shows cause that additional time is needed to photograph or mark such exhibit. Such photograph or marked exhibit may be presented as the exhibit in any further action or proceeding. If the party entitled to such exhibits is unknown, or fails to apply for the return of such exhibits, the procedure for their disposition shall be as follows:

1. After the expiration of six (6) months from the time the conviction becomes final, or if the action or proceeding has not resulted in a conviction, at any time after the judgment has become final, the court in which the case was tried shall make an order specifying what exhibits may be released from the custody of the court without prejudice to the state. Upon receipt of such an order, the property shall be transferred to the county sheriff or other proper governmental agency for sale to the public. At least ten (10) days prior to such sale, notice of the sale shall be sent by certified mail return receipt requested to the last person in possession of such exhibit prior to such exhibit being seized by the state at the last-known address of such person. Upon satisfactory proof being provided to the county sheriff or other proper governmental agency holding the transferred exhibit that the last person in possession of such exhibit was a lawful possessor, the exhibit shall be released to the last person in possession of such exhibit;

2. At any time prior to the time fixed for the transfer, the owner or any person entitled to the possession of any of such exhibits may obtain from the court an order returning them to him;

3. Articles not returned to their owners or to persons entitled to their possession at or prior to the time set for the transfer shall be sold by the proper receiving agency for cash. The articles shall be sold singly or in combinations. The money received from such sales shall be placed in the appropriate fund of the governmental agency responsible for the sale;

4. Where the exhibit consists of money or currency and is unclaimed at the time of the transfer, it shall not be transferred but shall be immediately deposited in the appropriate fund of the governmental agency in possession of such property; and

5. If any property is transferred to the county sheriff or other governmental agency pursuant to this section it may be sold in the manner provided by law for the sale of surplus personal property. If the county sheriff or other proper governmental agency determines that any such property transferred to it for sale is needed for a public use, such property may be retained by the agency and need not be sold.

C. The court may, on application of the party entitled thereto, or an agent designated in writing by the owner, order such documentary exhibits as may be released from the custody of the court without prejudice to the state delivered to such party any time after the final determination of the action or proceeding; provided, however, where the action or proceeding has resulted in an order granting probation, such delivery may be made any time after the final determination of an appeal of such order, or after the time for such appeal has elapsed. Provided, further, if the owner of such exhibit is the victim of the offense for which such exhibit is held, said owner may make application to the court at any time prior to the final disposition of the action or proceeding for the return of the exhibit. The applicant shall notify the last person in possession of such exhibit prior to such exhibit being seized by the state of the hearing by mailing a copy of the notice by certified mail return receipt requested at the last-known address of such person, unless such person has signed a nonownership affidavit pursuant to Section 1321 of this title disclaiming any ownership rights to such exhibit. If the last person in possession of the property is unable to be served notice by said certified mail, notice shall be provided by one publication in a newspaper of general circulation in the county where the property is held in custody. The applicant shall notify the district attorney and the court when notice has been served to the last person in possession of such property or published pursuant to this section. The hearing shall be held not less than ten (10) days or more than twenty (20) days after the court has been notified that the notice has been served or published. In the event the court orders the release of said exhibit to the owner, the district attorney shall photograph or mark said exhibit with an identification number and return the exhibit to the owner within ten (10) days of the court order. The court may authorize ten (10) days additional time for the return of such exhibit if the district attorney shows cause that additional time is needed to photograph or mark such exhibit. Such photograph or marked exhibit may be presented as the exhibit in any further action or proceeding. If the party entitled to such documentary exhibits is unknown, or fails to apply for the return of said exhibits, the procedure for their disposition shall be as follows:

1. After the expiration of six (6) months from the time the conviction becomes final, or if the action or proceeding has not

resulted in a conviction, at any time after the judgment has become final, the court in which the case was tried shall make an order requiring such exhibits to be destroyed; provided, that no such order shall be made authorizing the destruction of any documentary exhibit if the destruction of such exhibit would prejudice the state;

2. No exhibit shall be destroyed or otherwise disposed of until sixty (60) days after the clerk of the court has posted a notice conspicuously in three public places in the county, referring to the order for the disposition, describing briefly the exhibit, and indicating the date after which the exhibit will be destroyed or otherwise disposed of.

D. The provisions of subsection B of this section shall not apply to any dangerous or deadly weapons, narcotic or poisonous drugs, explosives, or any property of any kind or character whatsoever the possession of which is prohibited by law. Any such property filed as an exhibit or held by the state shall be, by order of the trial court, destroyed or sold or otherwise disposed of under the conditions prescribed in such order. This act shall not be interpreted to authorize the return of any property, the possession of which is prohibited by law.

E. The disposition of biological evidence, as defined by Section 1 of this act, shall be governed by Section 1 of this act.
Added by Laws 1976, c. 141, § 1, eff. Oct. 1, 1976. Amended by Laws 1983, c. 294, § 3, eff. Nov. 1, 1983; Laws 1985, c. 94, § 1, eff. Nov. 1, 1985; Laws 1988, c. 178, § 3, eff. Nov. 1, 1988; Laws 1992, c. 280, § 2, eff. Sept. 1, 1992; Laws 2001, c. 52, § 3, eff. July 1, 2001.

§22-1331. Reward for arrest of horse thief.

If any person shall arrest or directly and immediately cause the arrest of any person guilty of stealing a horse or mule within this state, and shall secure the indictment and conviction of such person in a court of competent jurisdiction, or shall deliver said person so arrested to a court having jurisdiction of said charge, and if the court, or any one to whom the person arrested shall be sent for trial, shall permit said person to give bond, with security, for his further appearance in court, and said bond shall be forfeited and collected, the person so securing the conviction or the delivery shall be entitled to a reward of Fifty Dollars ($50.00) therefor.

R.L. 1910, Sec. 6136.

§22-1333. Clerk's fees.

The clerk furnishing such transcript shall be allowed the same fees for same as he is allowed by law for similar services, which shall be paid by the person entitled thereto.
R.L.1910, § 6138.

§22-1334. Littering upon highways or dumping trash on public or private property - Rewards - Claims.

A. The boards of county commissioners of counties and the governing bodies of municipalities may offer and pay a reward, from funds set aside for that purpose, in an amount not to exceed fifty percent (50%) of the fine imposed, for the arrest and conviction or for evidence leading to the arrest and conviction of any person who violates the provisions of Sections 1753.3 or 1761.1 of Title 21 of the Oklahoma Statutes.

B. The board of county commissioners or the governing body of the municipality may create and maintain a reward fund in the county or municipal treasury which shall be a revolving fund not subject to fiscal year limitations, from which to pay the rewards provided for in subsection A of this section, and to offset the cost of any special enforcement programs originated by any law enforcement agency responsible for the arrest or prosecution of any person who violates the provisions of Sections 1753.3 or 1761.1 of Title 21 of the Oklahoma Statutes. These costs may include, but not be limited to, the posting of signs along the state’s highways advising motorists of the fines for littering or illegal dumping.

C. The board of county commissioners may provide for the publication, advertisement and countywide distribution to the public of information as to the reward program specified by this section.

D. Claims for rewards shall be on forms provided by the county or municipality and shall be submitted to the prosecuting attorney of the county or municipality no later than thirty (30) days after sentencing of the defendant. The prosecuting attorney shall investigate the validity of the claim and make a nonbinding written recommendation to the board of county commissioners or governing body of the municipality.

E. All claims relating to a conviction shall be considered together at the next regular meeting of the board of county commissioners or governing body of the municipality following receipt of the prosecuting attorney's report.

F. In determining the amount of the reward, the board of county commissioners or the governing body of the municipality shall have sole discretion to honor or deny the claim, but shall consider:

1. The severity of the offense;

2. The size of the fine imposed;

3. The number of persons claiming a reward and the degree to which each claimant was responsible for the arrest or conviction;

4. The burden, if any, incurred by the claimant including cost to appear at trial; and

5. Other factors which the board or governing body deems appropriate.

G. No reward shall be authorized and no debt shall accrue to the county or municipality upon the depletion of the reward fund authorized by this section.

H. The reward authorized by this section shall be in lieu of any other county or municipal reward.

I. Full-time peace officers of this state or of any county or municipality within this state shall not be eligible for the reward provided by this section.

J. All courts assessing and receiving reward funds as required by Sections 1753.3 and 1761.1 of Title 21 of the Oklahoma Statutes shall provide appropriate transfer of the reward funds to the proper county or municipal reward fund as prescribed by the provisions of this section.

Added by Laws 1988, c. 115, § 2, eff. Nov. 1, 1988. Amended by Laws 1994, c. 338, § 3, emerg. eff. June 8, 1994; Laws 1996, c. 299, § 3, emerg. eff. June 10, 1996; Laws 1999, c. 364, § 2, eff. July 1, 1999.

§22-1341. Definitions.

As used in this section:

(1) "Merchant", means any corporation, partnership, association or person who is engaged in the business of selling goods, wares and merchandise in a mercantile establishment;

(2) "Mercantile establishment", means any mercantile place of business in, at, or from which goods, wares and merchandise are sold, offered for sale or delivered from and sold at retail or wholesale;

(3) "Merchandise", means all goods, wares and merchandise offered for sale or displayed by a merchant;

(4) "Wrongful taking", includes stealing of merchandise or money and any other wrongful appropriation of merchandise or money.

Laws 1957, p. 165, § 1; Laws 1967, c. 223, § 1, emerg. eff. May 2, 1967.

§22-1342. Peace officers - Arrest without warrant.

Any peace officer may arrest without warrant any person he has probable cause for believing has committed larceny of merchandise held for sale in retail or wholesale establishments, when such arrest is made in a reasonable manner.

Laws 1957, p. 165, § 2.

§22-1343. Detention of suspect - Purposes.

Any merchant, his agent or employee, who has reasonable grounds or probable cause to believe that a person has committed or is committing a wrongful taking of merchandise or money from a mercantile establishment, may detain such person in a reasonable manner for a reasonable length of time for all or any of the following purposes:

(a) Conducting an investigation, including reasonable interrogation of the detained person, as to whether there has been a wrongful taking of such merchandise or money;

(b) Informing the police or other law enforcement officials of the facts relevant to such detention;

(c) Performing a reasonable search of the detained person and his belongings when it appears that the merchandise or money may otherwise be lost; and

(d) Recovering the merchandise or money believed to have been taken wrongfully. Any such reasonable detention shall not constitute an unlawful arrest or detention, nor shall it render the merchant, his agent or employee criminally or civilly liable to the person so detained.

Laws 1967, c. 223, § 2, emerg. eff. May 2, 1967.

§22-1344. Concealing unpurchased merchandise - Presumption.

Any person concealing unpurchased merchandise of any mercantile establishment, either on the premises or outside the premises of such establishment, shall be presumed to have so concealed such merchandise with the intention of committing a wrongful taking of such merchandise within the meaning of Section 1341 of this title, and such concealment or the finding of such unpurchased merchandise concealed upon the person or among the belongings of such person shall be conclusive evidence of reasonable grounds and probable cause for the detention in a reasonable manner and for a reasonable length of time, of such person by a merchant, his agent or employee, and any such reasonable detention shall not be deemed to be unlawful, nor render such merchant, his agent or employee criminally or civilly liable.

Laws 1967, c. 223, § 3, emerg. eff. May 2, 1967.

§22-1345. Citation.

This act may be known and cited as the "Interstate Agreement on Detainers Act".

Laws 1977, c. 109, § 1, eff. Oct. 1, 1977.

§22-1346. Appropriate court - Definition.

As used in this act, "appropriate court", with respect to the United States, means the courts of the United States and, with respect to this state, the courts of Oklahoma in which inictments, informations or complaints for which disposition is sought are pending.

Laws 1977, c. 109, § 2, eff. Oct. 1, 1977.

§22-1347. Interstate Agreement on Detainers.

The Interstate Agreement on Detainers is hereby enacted into law and entered into by this state with all jurisdictions legally joining in substantially the following form:

"The contracting states solemnly agree that:

Article I

The party states find that charges outstanding against a prisoner, detainers based on untried indictments, informations or complaints and difficulties in securing speedy trial of persons already incarcerated in other jurisdictions, produce uncertainties which obstruct programs of prisoner treatment and rehabilitation. Accordingly, it is the policy of the party states and the purpose of this agreement to encourage the expeditious and orderly disposition of such charges and determination of the proper status of any and all detainers based on untried indictments, informations or complaints. The party states also find that proceedings with reference to such charges and detainers, when emanating from another jurisdiction, cannot properly be had in the absence of cooperative procedures. It is the further purpose of this agreement to provide such cooperative procedures.

Article II

As used in this agreement:

(a) "State" shall mean a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.

(b) "Sending state" shall mean a state in which a prisoner is incarcerated at the time that he initiates a request for final disposition pursuant to Article III hereof or at the time that a request for custody or availability is initiated pursuant to Article IV hereof.

(c) "Receiving state" shall mean the state in which trial is to be had on an indictment, information or complaint pursuant to Article III or Article IV hereof.

Article III

(a) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, he shall be brought to trial within one hundred eighty (180) days after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of his imprisonment and his request for final disposition to be made of the indictment, information or complaint; provided, that, for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be

accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner and any decision of the state parole agency relating to the prisoner.

(b) The written notice and request for final disposition referred to in paragraph (a) hereof shall be given or sent by the prisoner to the warden, commissioner of corrections or any other official having custody of him, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

(c) The warden, commissioner of corrections or other official having custody of the prisoner shall promptly inform him of the source and contents of any detainer lodged against him and shall also inform him of his right to make a request for final disposition of the indictment, information or complaint on which the detainer is based.

(d) Any request for final disposition made by a prisoner pursuant to paragraph (a) hereof shall operate as a request for final disposition of all untried indictments, informations or complaints on the basis of which detainers have been lodged against the prisoner from the state to whose prosecuting official the request for final disposition is specifically directed. The warden, commissioner of corrections or other official having custody of the prisoner shall forthwith notify all appropriate prosecuting officers and courts in the several jurisdictions within the state to which the prisoner's request for final disposition is being sent of the proceeding being initiated by the prisoner. Any notification sent pursuant to this paragraph shall be accompanied by copies of the prisoner's written notice, request and the certificate. If trial is not had on any indictment, information or complaint contemplated hereby prior to the return of the prisoner to the original place of imprisonment, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

(e) Any request for final disposition made by a prisoner pursuant to paragraph (a) hereof shall also be deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein by reason of paragraph (d) hereof, and a waiver of extradition to the receiving state to serve any sentence there imposed upon him, after completion of his term of imprisonment in the sending state. The request for final disposition shall also constitute a consent by the prisoner to the production of his body in any court where his presence may be required in order to effectuate the purposes of this agreement and a further consent voluntarily to be returned to the original place of imprisonment in accordance with

the provisions of this agreement. Nothing in this paragraph shall prevent the imposition of a concurrent sentence if otherwise permitted by law.

(f) Escape from custody by the prisoner subsequent to his execution of the request for final disposition referred to in paragraph (a) hereof shall void the request.

Article IV

(a) The appropriate officer of the jurisdiction in which an untried indictment, information or complaint is pending shall be entitled to have a prisoner against whom he has lodged a detainer and who is serving a term of imprisonment in any party state made available in accordance with Article V (a) hereof upon presentation of a written request for temporary custody or availability to the appropriate authorities of the state in which the prisoner is incarcerated; provided, that the court having jurisdiction of such indictment, information or complaint shall have duly approved, recorded and transmitted the request; and provided further, that there shall be a period of thirty (30) days after receipt by the appropriate authorities before the request be honored, within which period the Governor of the sending state may disapprove the request for temporary custody or availability, either upon his own motion or upon motion of the prisoner.

(b) Upon request of the officer's written request as provided in paragraph (a) hereof, the appropriate authorities having the prisoner in custody shall furnish the officer with a certificate stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner and any decisions of the state parole agency relating to the prisoner. Said authorities simultaneously shall furnish all other officers and appropriate courts in the receiving state who has lodged detainers against the prisoner with similar certificates and with notices informing them of the request for custody or availability and of the reasons therefor.

(c) In respect of any proceeding made possible by this article, trial shall be commenced within one hundred twenty (120) days of the arrival of the prisoner in the receiving state, but for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

(d) Nothing contained in this article shall be construed to deprive any prisoner of any right which he may have to contest the legality of his delivery as provided in paragraph (a) hereof, but such delivery may not be opposed or denied on the ground that the executive authority of the sending state has not affirmatively consented to or ordered such delivery.

(e) If trial is not had on any indictment, information or complaint contemplated hereby prior to the prisoner's being returned to the original place of imprisonment pursuant to Article V (e) hereof, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

Article V

(a) In response to a request made under Article III or Article IV hereof, the appropriate authority in a sending state shall offer to deliver temporary custody of such prisoner to the appropriate authority in the state where such indictment, information or complaint is pending against such person in order that speedy and efficient prosecution may be had. If the request for final disposition is made by the prisoner, the offer of temporary custody shall accompany the written notice provided for in Article III of this agreement. In the case of a federal prisoner, the appropriate authority in the receiving state shall be entitled to temporary custody as provided by this agreement or to the prisoner's presence in federal custody at the place of trial, whichever custodial arrangement may be approved by the custodian.

(b) The officer or other representative of a state accepting an offer of temporary custody shall present the following upon demand:

(1) Proper identification and evidence of his authority to act for the state into whose temporary custody this prisoner is to be given.

(2) A duly certified copy of the indictment, information or complaint on the basis of which the detainer has been lodged and on the basis of which the request for temporary custody of the prisoner has been made.

(c) If the appropriate authority shall refuse or fail to accept temporary custody of said person, or in the event that an action on the indictment, information or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in Article III or Article IV hereof, the appropriate court of the jurisdiction where the indictment, information or complaint has been pending shall enter an order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect.

(d) The temporary custody referred to in this agreement shall be only for the purpose of permitting prosecution on the charge or charges contained in one or more untried indictments, informations or complaints which form the basis of the detainer or detainers or for prosecution on any other charge or charges arising out of the same transaction. Except for his attendance at court and while being transported to or from any place at which his presence may be required, the prisoner shall be held in a suitable jail or other facility regularly used for persons awaiting prosecution.

(e) At the earliest practicable time consonant with the purposes of this agreement, the prisoner shall be returned to the sending state.

(f) During the continuance of temporary custody or while the prisoner is otherwise being made available for trial as required by this agreement, time being served on the sentence shall continue to run but good time shall be earned by the prisoner only if, and to the extent that, the law and practice of the jurisdiction which imposed the sentence may allow.

(g) For all purposes other than that for which temporary custody as provided in this agreement is exercised, the prisoner shall be deemed to remain in the custody of and subject to the jurisdiction of the sending state and any escape from temporary custody may be dealt with in the same manner as an escape from the original place of imprisonment or in any other manner permitted by law.

(h) From the time that a party state receives custody of a prisoner pursuant to this agreement until such prisoner is returned to the territory and custody of the sending state, the state in which the one or more untried indictments, informations or complaints are pending or in which trial is being had shall be responsible for the prisoner and shall also pay all costs of transporting, caring for, keeping and returning the prisoner. The provisions of this paragraph shall govern unless the states concerned shall have entered into a supplementary agreement providing for a different allocation of costs and responsibilities as between or among themselves. Nothing herein contained shall be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

Article VI

(a) In determining the duration and expiration dates of the time periods provided in Articles III and IV of this agreement, the running of said time periods shall be tolled whenever and for as long as the prisoner is unable to stand trial, as determined by the court having jurisdiction of the matter.

(b) No provision of this agreement, and no remedy made available by this agreement shall apply to any person who is adjudged to be mentally ill.

Article VII

Each state party to this agreement shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this agreement, and who shall provide, within and without the state, information necessary to the effective operation of this agreement.

Article VIII

This agreement shall enter into full force and effect as to a party state when such state has enacted the same into law. A state party to this agreement may withdraw herefrom by enacting a statute repealing the same. However, the withdrawal of any state shall not affect the status of any proceedings already initiated by inmates or by the state officers at the time such withdrawal takes effect, nor shall it affect their rights in respect thereof.

Article IX

This agreement shall be liberally construed so as to effectuate its purposes. The provisions of this agreement shall be severable and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state party hereto, the agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters."
Added by Laws 1977, c. 109, § 3, eff. Oct. 1, 1977.

§22-1348. Enforcement of agreement.

All courts, departments, agencies, officers and employees of the United States and of the State of Oklahoma are hereby directed to enforce the agreement on detainers and to cooperate with one another and with all party states in enforcing the agreement and effectuating its purpose.
Laws 1977, c. 109, § 4, eff. Oct. 1, 1977.

§22-1349. Central administrator and information agent.

The Governor shall designate an appropriate state officer or employee to serve as central administrator of and information agent for the agreement on detainers.
Laws 1977, c. 109, § 5, eff. Oct. 1, 1977.

§22-1355. Short title - Creation of System.

A. Sections 1355 through 1369 of this title shall be known and may be cited as the "Indigent Defense Act".

B. The Oklahoma Indigent Defense System is hereby created, to provide counsel in cases, as provided in the Indigent Defense Act, in which the defendant is indigent and unable to employ counsel.

C. Unless otherwise provided, the provisions of the Indigent Defense Act shall not be applicable in counties subject to the provisions of Section 138.1a of Title 19 of the Oklahoma Statutes.
Added by Laws 1981, c. 207, § 1, emerg. eff. May 26, 1981. Amended by Laws 1988, c. 253, § 3, operative July 1, 1988; Laws 1991, c. 238,

§ 1, eff. July 1, 1991; Laws 1992, c. 303, § 1, eff. July 1, 1992; Laws 1996, c. 301, § 3, eff. July 1, 1996; Laws 2001, c. 210, § 1, eff. July 1, 2001.

§22-1355.1. Oklahoma Indigent Defense System Board.

There is hereby created the Oklahoma Indigent Defense System Board. The Board shall govern the Oklahoma Indigent Defense System. The Board shall be composed of five (5) members appointed for five-year terms by the Governor with the advice and consent of the Senate. At least three members shall be attorneys licensed to practice law in the State of Oklahoma who have experience through the practice of law in the defense of persons accused of crimes. The Governor shall designate one Board member to serve as chair. No congressional district shall be represented by more than one member on the Board. However, when congressional districts are redrawn each member appointed prior to July 1 of the year in which such modification becomes effective shall complete the current term of office and appointments made after July 1 of the year in which such modification becomes effective shall be based on the redrawn districts. Appointments made after July 1 of the year in which such modification becomes effective shall be from any redrawn districts which are not represented by a board member until such time as each of the modified congressional districts are represented by a board member. No appointments may be made after July 1 of the year in which such modification becomes effective if such appointment would result in more than two members serving from the same modified district. No county shall be represented by more than one member. The Board shall meet at least every other month upon the call of the chair. Board members shall serve without compensation, but shall be reimbursed for their necessary travel expenses as provided by the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes. The terms of office for the initial appointees to the Board shall be as follows:

1. The term for Position One shall expire on July 1, 1989;
2. The term for Position Two shall expire on July 1, 1990;
3. The term for Position Three shall expire on July 1, 1991;
4. The term for Position Four shall expire on July 1, 1992; and
5. The term for Position Five shall expire on July 1, 1993.

A Board member shall be eligible for reappointment and shall continue in office until his successor has been appointed, qualified and confirmed by the Senate.

Added by Laws 1988, c. 253, § 4, operative July 1, 1988. Amended by Laws 1991, c. 238, § 2, eff. July 1, 1991; Laws 1992, c. 303, § 2, eff. July 1, 1992; Laws 1994, c. 328, § 1, eff. July 1, 1994; Laws 1998, c. 201, § 1, emerg. eff. May 11, 1998; Laws 2001, c. 210, § 2, eff. July 1, 2001; Laws 2002, c. 375, § 4, eff. Nov. 5, 2002.

§22-1355.2. Definitions.

A. As used in the Indigent Defense Act:

1. "Board" means the Oklahoma Indigent Defense System Board;

2. "Executive Director" means the chief executive officer of the Oklahoma Indigent Defense System; and

3. "System" means the Oklahoma Indigent Defense System.

B. As used in the Oklahoma Statutes, references to "public defender" shall mean a county indigent defender for a county subject to the provisions of Section 138.1a of Title 19 of the Oklahoma Statutes, an attorney who represents indigents pursuant to a contract with the System or who agrees to accept assignments of cases from the System to represent indigents, or an attorney employed by the System. Added by Laws 1991, c. 238, § 3, eff. July 1, 1991. Amended by Laws 1992, c. 303, § 3, eff. July 1, 1992; Laws 2001, c. 210, § 3, eff. July 1, 2001.

§22-1355.3. Board - Powers and duties.

A. The Board shall have the following powers and duties:

1. To appoint the Executive Director and to set the salary of the Executive Director;

2. To adopt salary schedules for the System;

3. To establish policies for the System as provided by law;

4. To require reports from the Executive Director as the Board deems necessary;

5. To approve an annual budget for the System, prepared and administered by the Executive Director;

6. To authorize the acceptance of monies, gifts, grants, or services from any public or private source;

7. To review claims for expenditures of monies;

8. To authorize contracts with individuals, educational institutions, or state or federal agencies;

9. To allocate and distribute funds or gifts received from public or private sources for indigent defense; and

10. To consult with indigent defenders and defense lawyers who represent indigents pursuant to contract or who agree to accept indigent defense cases assigned by the System to discuss problems and hear recommendations concerning necessary research, minimum standards, educational needs, and other matters imperative to conducting Oklahoma criminal defense in a professional manner.

B. The Board shall make an annual report to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Oklahoma Supreme Court, and the Presiding Judge of the Oklahoma Court of Criminal Appeals regarding the efforts of the Board to implement the purposes of the Indigent Defense Act.

C. If there is a vacancy or extended absence in the office of Executive Director, the Board shall perform the duties or appoint an

interim director to perform such duties until a new Executive Director is appointed.
Added by Laws 1991, c. 238, § 4, eff. July 1, 1991. Amended by Laws 1992, c. 303, § 4, eff. July 1, 1992; Laws 1994, c. 328, § 2, eff. July 1, 1994; Laws 2001, c. 210, § 4, eff. July 1, 2001.

§22-1355.4. Executive Director.

A. The chief executive officer of the Oklahoma Indigent Defense System shall be the Executive Director, who shall be appointed by the Board and serve at the pleasure of the Board. The Executive Director shall be an attorney who has practiced law for at least four (4) years preceding the appointment and who is licensed to practice law in this state or is eligible to become so licensed within one (1) year of the appointment. The Executive Director shall have experience in the representation of persons accused or convicted of crimes.

B. The Executive Director shall perform administrative functions which serve the Board.

C. The Executive Director shall have the following powers and duties:

1. To prepare and administer an annual budget approved by the Board and to process claims for the System;

2. To enter into contracts to provide counsel in cases in which the defendant is indigent and unable to employ counsel, to enter into contracts with individuals, educational institutions, or state or federal agencies for other purposes, and to approve or disapprove the provisions of any such contract;

3. To review and approve or disapprove claims for expenditures of monies;

4. To take such actions as shall strengthen the criminal justice system in this state;

5. To promote the education and training of all attorneys representing indigent criminal defendants including, subject to available funding, nationally recognized defense seminars and evidence-based practices regarding behavioral health and treatment of defendants with substance abuse or mental health needs;

6. To maintain and improve effective representation for the indigent criminal defendant;

7. To employ personnel as necessary to carry out the duties imposed upon the System by law and to set the salaries of such personnel, subject to the salary schedules adopted by the Board;

8. To solicit and maintain a current list of attorneys licensed to practice law in this state who are willing to accept case assignments from the System and who meet any other qualifications as set by the Board;

9. To solicit and maintain a separate list of persons eligible for appointment to capital cases, who meet the qualifications set by the System;

10. To establish reasonable hourly rates of compensation for attorneys appointed in accordance with the Indigent Defense Act, subject to approval by the Board;

11. To establish maximum caseloads for attorneys employed by the System, subject to approval by the Board;

12. To reduce caseloads through reassignment of cases to private attorneys, as necessary;

13. To approve the sharing of office space, equipment, or personnel among the separate indigent defense programs within the System;

14. To prepare and submit to the Board an annual report for the preceding fiscal year regarding the efforts of the System to implement the purposes of the Indigent Defense Act, and to file that report with the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Oklahoma Supreme Court, and the Presiding Judge of the Oklahoma Court of Criminal Appeals;

15. To conduct regional or statewide conferences and training seminars for the purpose of implementing the provisions of the Indigent Defense Act;

16. To provide System personnel who serve in an advisory capacity to the indigent defenders and defense attorneys who represent indigents pursuant to contract or who agree to accept cases assigned by the System to represent indigents of this state;

17. To gather and disseminate information to indigent defenders, including, but not limited to, changes in the law;

18. To recommend additional legislation necessary to upgrade the Oklahoma Indigent Defense System or to improve the justice system; and

19. To operate a cost-effective system by:

a. implementing procedures to track System expenditures to show costs by case and client and to track time and expenses by attorney if the attorney is employed by the System,

b. adopting written policies regarding when employees are to be in travel status and making efforts to reduce travel costs, and

c. reviewing assignment of indigency status to identify clients who have available resources, and collecting costs of representation when feasible.

D. 1. The Executive Director is hereby authorized to develop, establish, and maintain lists of approved contractors who have agreed to provide expert services to the System. The lists shall include any expert who desires to furnish services to the System and who has

filed a schedule of fees for services with, and on a form approved by, the Executive Director. Any deviation in excess of the published schedule of fees shall require the prior written approval of the Executive Director. Any attorney appointed or assigned cases in accordance with the Indigent Defense Act may request expert services from the list of experts maintained by the Executive Director. The Executive Director or designee may, in said person's sole discretion, approve requests for expert services; provided, however, that nothing contained in the Indigent Defense Act shall be construed to render the Executive Director a member of the defense team in any System client's case for strategic purposes.

2. Attorneys appointed or assigned cases in accordance with the Indigent Defense Act may request investigative or other nonexpert witness services from the Executive Director on a form provided by the Executive Director. The Executive Director or designee may, in said person's sole discretion, approve requests for such services at a reasonable hourly rate of compensation; provided, however, that nothing contained in the Indigent Defense Act shall be construed to render the Executive Director a member of the defense team in any System client's case for strategic purposes.

3. Services obtained under this section may be obtained as sole source contracts and are specifically exempt from the requirements of soliciting no less than three quotations found in paragraph 7 of subsection A of Section 85.45j of Title 74 of the Oklahoma Statutes.

E. Each individual performing the services provided for in subsection D of this section may, with the approval of the Executive Director, be reimbursed for necessary travel expenses up to the amount permitted by the State Travel Reimbursement Act.

F. Requests for expenses not included in subsections D and E of this section shall require preapproval by the Executive Director. Added by Laws 1991, c. 238, § 5, eff. July 1, 1991. Amended by Laws 1992, c. 303, § 5, eff. July 1, 1992; Laws 1994, c. 328, § 3, eff. July 1, 1994; Laws 1996, c. 301, § 4, eff. July 1, 1996; Laws 1997, c. 326, § 1, eff. Nov. 1, 1997; Laws 1999, c. 197, § 1, emerg. eff. May 24, 1999; Laws 2001, c. 210, § 5, eff. July 1, 2001; Laws 2017, c. 351, § 4, eff. Nov. 1, 2017.

§22-1355.5. Repealed by Laws 1992, c. 303, § 31, eff. July 1, 1992.

§22-1355.6. Responsibility of System to indigent defendant.

A. The Indigent Defense System shall have the responsibility of defending all indigents, as determined in accordance with the provisions of the Indigent Defense Act in all capital and felony cases and in all misdemeanor and traffic cases punishable by incarceration. In addition, the System shall have the responsibility of defending all indigent juveniles, as determined in accordance with the provisions of the Indigent Defense Act, in juvenile delinquency

proceedings, adult certification proceedings, reverse certification proceedings, youthful offender proceedings, and any other cases pursuant to the Oklahoma Juvenile Code, other than mental health cases, in-need-of-supervision proceedings, and any other juvenile proceedings that are civil in nature.

B. Upon prior approval by the Executive Director, the System may also represent indigents in other state proceedings, if such representation is related to the case for which the original appointment of the System was made and if not otherwise prohibited by the Indigent Defense Act.

C. The Executive Director may select attorneys to handle indigent criminal cases from a list of attorneys who have agreed to accept assignments of such cases, who provide proof of professional liability insurance coverage, and who meet the qualifications established by the System for such assignments. Payment to such attorneys shall be made from the budget of the System.

D. The Board shall have the authority to provide for representation for indigent criminal defendants and others for whom representation is required by either the Constitution or laws of this state by attorneys employed by the System.

Added by Laws 1991, c. 238, § 7, eff. July 1, 1992. Amended by Laws 1992, c. 303, § 6, eff. July 1, 1992; Laws 1992, c. 357, § 7, eff. July 1, 1992; Laws 1993, c. 298, § 6, eff. July 1, 1993; Laws 1994, c. 229, § 3, eff. Sept. 1, 1994; Laws 1996, c. 301, § 5, eff. July 1, 1996; Laws 1997, c. 326, § 2, eff. Nov. 1, 1997; Laws 2001, c. 210, § 7, eff. July 1, 2001.

§22-1355.7. Conflicts of interest - Appointment of private attorney.

A. If the Executive Director determines that a conflict of interest exists at the trial level between a defendant and an attorney employed by the System, the case may be reassigned by the Executive Director to another attorney employed by the System, or to a private attorney with whom the System has a contract for indigent defense or who is included on a list of attorneys as provided in subsection C of this section.

B. If the Executive Director determines that a conflict of interest exists at the trial level between a defendant and an attorney who represents indigents either pursuant to a contract with the System or as assigned by the System, the case may be reassigned by the Executive Director to an attorney employed by the System, another attorney who represents indigents pursuant to a contract with the System, or another private attorney who has agreed to accept such assignments pursuant to subsection C of this section.

C. Assignment of a case by the System to a private attorney in all counties of this state served by the System shall be from a list of attorneys willing to accept such assignments and who meet the qualifications established by the System for such assignments.

D. Payment to such private attorneys shall be made by the System and shall be at rates approved by the System, subject to the statutory limits established in Sections 1355.8 and 1355.13 of this title for cases at the trial level.
Added by Laws 1991, c. 238, § 8, eff. July 1, 1992. Amended by Laws 1992, c. 303, § 7, eff. July 1, 1992; Laws 1994, c. 328, § 4, eff. July 1, 1994; Laws 1997, c. 326, § 3, eff. Nov. 1, 1997; Laws 2001, c. 210, § 8, eff. July 1, 2001.

§22-1355.8. Award of contracts - Compensation - Appointment of attorneys for indigents not entitled to representation by the System.

A. In addition to the methods of providing counsel set out in subsections C and D of Section 1355.6 of this title, the Board shall have the authority to award contracts to provide noncapital trial representation to indigent criminal defendants and indigent juveniles in cases for which the System must provide representation, including, but not limited to, renewing any existing contract or contracts for the next fiscal year or soliciting new offers to contract, whichever the Board determines to be in the best interests of the state, the System and the clients represented by the System. Any such contract shall be awarded at such time as the Board may deem necessary.

B. For those counties in which a prior fiscal year contract is not renewed for the succeeding fiscal year or in which the Board elects to solicit new offers to contract, the Executive Director shall cause notice to be published in the Oklahoma Bar Journal that offers to contract will be accepted to provide indigent noncapital trial services. The notice required by this subsection shall include the following:

1. The date, time and place where offers to contract will be opened;

2. The qualifications required of those desiring to make an offer to contract;

3. The period covered by the contract; and

4. A general description of the services required.

C. Only members in good standing of the Oklahoma Bar Association shall be eligible to submit offers to contract pursuant to this section. In addition, all offers to contract must be accompanied by a written statement of the manner in which representation shall be made available as needed.

D. 1. The Board shall accept the best offer or offers, as determined by the Board, from a qualified attorney or attorneys. In determining whether an offer is the best offer, the Board shall take into consideration, among other factors, the following:

a. whether the attorney or attorneys submitting the offer maintain an office within that county,

b. whether any such office is the attorney's primary office,

c. whether the attorney or attorneys submitting the offer have been awarded a contract in another county,
d. whether sufficient attorneys are included in the offer to competently address the number of cases to be covered under the contract, and
e. the accessibility of the attorney or attorneys to the clients to be served if the Board awards a contract on the basis of the offer.

2. The System shall maintain an original of each offer to contract.

3. Every contract awarded pursuant to the provisions of this subsection which is signed by more than one attorney shall provide that every attorney signing such contract shall be jointly and severally liable for the full performance of all services to be delivered pursuant to such contract.

4. Every contract awarded pursuant to the provisions of this subsection shall provide that every attorney who will be performing services pursuant to the contract shall carry professional liability insurance in an amount satisfactory to the Board. No contract shall be effective until proof of such insurance is provided to the System.

5. In the event that only one qualified offer is received, the Board may accept the offer, make one or more counteroffers, readvertise or provide representation as otherwise authorized by the Indigent Defense Act. In the event that more than one qualified offer is received for a county or counties, the Board may accept one or more of the offers, make one or more counteroffers to one or more of the offers received, readvertise if the Board determines that awarding a contract or contracts on the offers received would not be in the best interest of the System or the clients represented by the System, or provide representation as otherwise authorized by the Indigent Defense Act. For purposes of discussing negotiating strategies in connection with making one or more counteroffers to one or more offers received, the Board may hold one or more executive sessions as necessary; provided, that any vote or action on offers received and counteroffers made, if any, shall be taken in public meeting with the vote of each member publicly cast and recorded.

6. In the event that no qualified offers to contract are received, the Board may readvertise or direct the Executive Director to assign cases from the relevant counties to private attorneys selected from a list of qualified attorneys who have agreed to accept assignments of such cases, who have provided proof of professional liability insurance coverage, and who meet the qualifications established by the System for such assignments. Compensation for such attorneys shall be as provided in subsection F of this section.

7. In the event that no qualified offers are received, and in lieu of assigning cases to private attorneys whose names are on a list of qualified attorneys pursuant to paragraph 6 of this

subsection, the Board may, pursuant to subsection D of Section 1355.6 or Section 1355.9 of this title, provide for representation for indigent criminal defendants and indigent juveniles by attorneys employed by the System.

8. In no event shall an attorney, who has not voluntarily agreed to provide representation to indigent criminal defendants and indigent juveniles, be appointed to represent an indigent person.

E. If a fiscal year contract is terminated before the end of the fiscal year, the Executive Director shall not be required to solicit offers to contract, but may instead award one or more replacement contracts for the affected county or counties to a qualified attorney or attorneys to represent persons in cases for which the System is obligated to provide counsel, provided that such replacement contract or contracts shall not be renewable for the next fiscal year.

F. 1. Except as provided in paragraph 3 of this subsection, total compensation for a case which is not covered by a fiscal year noncapital trial contract awarded or renewed pursuant to subsection A of this section shall not exceed Eight Hundred Dollars ($800.00) in the following cases:

a. juvenile delinquency proceedings, adult certification proceedings, reverse certification proceedings and appeals, youthful offender proceedings, and any other proceedings and appeals, pursuant to the Oklahoma Juvenile Code in which the System is required to provide representation pursuant to subsection A of Section 1355.6 of this title,

b. traffic cases punishable by incarceration, and

c. misdemeanor cases.

2. Except as provided in paragraph 3 of this subsection, total compensation for a case which is not covered by a fiscal year noncapital trial contract awarded pursuant to this section shall not exceed Three Thousand Five Hundred Dollars ($3,500.00) in felony cases.

3. The maximum statutory fees established in this subsection may be exceeded only upon a determination made by the Executive Director and approved by the Board that the case is an exceptional one which requires an extraordinary amount of time to litigate, and that the request for extraordinary attorney fees is reasonable.

G. 1. Attorneys paid for indigent defense pursuant to a fiscal year noncapital trial contract awarded or renewed pursuant to this section shall be paid an annual fee in twelve monthly installments each equaling seven and one-half percent (7.5%) of the total value of the contract, or as otherwise provided by contract.

2. Attorneys paid for indigent defense pursuant to paragraph 1 of this subsection shall receive the balance of ten percent (10%) of the total value of the contract upon completion of all felony and misdemeanor matters covered by the contract. A matter is completed

for purposes of this paragraph when no additional services are required under the contract. The Board, upon recommendation of the Executive Director, may, however, authorize partial payments on a quarterly basis of the amount retained as reasonable compensation for those matters which were completed during the prior quarter. The system may transfer the amount retained from the total value of the contract pursuant to this subsection to the Contract Retention Revolving Fund created by Section 1369 of this title.

H. To receive payment in a case assigned pursuant to subsection C of Section 1355.6 of this title, an attorney must submit a claim in accordance with the provisions of the Indigent Defense Act.

I. Attorneys providing services pursuant to a contract with the System, shall provide periodic status reports on all such cases, as often as deemed necessary by the System.

J. Any attorney providing services pursuant to a contract with the System shall continue to provide representation at the trial level in each case assigned to the attorney during the contract period until the trial court ceases to retain jurisdiction; provided, the court shall allow an attorney to withdraw from a case only after the attorney has made proper application to withdraw from the case and the application has been approved by the Executive Director.

K. In all cases in which legal representation by the Oklahoma Indigent Defense System is not authorized by other provisions of the Indigent Defense Act and in which indigents are entitled to legal representation by the Constitution and laws of this state, the court shall appoint legal representation, from a list of qualified volunteer attorneys who provide proof of professional liability insurance coverage, and direct to be paid from the local court fund a reasonable and just compensation not to exceed Eight Hundred Dollars ($800.00) to the attorney or attorneys for services as they may render. The compensation limit may be exceeded if the court finds that the case required an extraordinary amount of time to litigate.
Added by Laws 1991, c. 238, § 9, eff. July 1, 1992. Amended by Laws 1992, c. 303, § 8, eff. July 1, 1992; Laws 1992, c. 357, § 8, eff. July 1, 1992; Laws 1993, c. 298, § 7, eff. July 1, 1993; Laws 1994, c. 328, § 5, eff. July 1, 1994; Laws 1996, c. 301, § 6, eff. June 1, 1996; Laws 1997, c. 326, § 4, eff. Nov. 1, 1997; Laws 1998, c. 201, § 2, emerg. eff. May 11, 1998; Laws 2001, c. 210, § 9, eff. July 1, 2001.

§22-1355.9. Main office and satellite offices.

The Board shall establish one main office and as many satellite offices as necessary for the proper representation of the System's clients.
Added by Laws 1991, c. 238, § 10, eff. July 1, 1992. Amended by Laws 1992, c. 303, § 9, eff. July 1, 1992; Laws 2001, c. 210, § 10, eff. July 1, 2001.

§22-1355.10. Repealed by Laws 1992, c. 303, § 31, eff. July 1, 1992.

§22-1355.11. Repealed by Laws 1992, c. 303, § 31, eff. July 1, 1992.

§22-1355.12. Repealed by Laws 1992, c. 303, § 31, eff. July 1, 1992.

§22-1355.13. Death penalty cases - Compensation of court-appointed attorneys.

A. In every case in which the defendant is subject to the death penalty and an attorney or attorneys other than an attorney or attorneys employed by the Indigent Defense System are assigned to the case by the System to provide representation, an attorney must submit a claim in accordance with the provisions of the Indigent Defense Act in such detail as required by the System. Except as provided in subsection B of this section, total compensation for non-System attorneys who serve as lead counsel in capital cases shall not exceed Twenty Thousand Dollars ($20,000.00) per case. Total compensation for a non-System attorney who is co-counsel with a System or non-System attorney in a capital case shall not exceed Five Thousand Dollars ($5,000.00) per case.

B. The maximum statutory fee established in this section may be exceeded only upon a determination made by the Executive Director and approved by the Board that the case is an exceptional one which requires an extraordinary amount of time to litigate, and that the request for extraordinary attorney fees is reasonable.

Added by Laws 1991, c. 238, § 14, eff. July 1, 1991. Amended by Laws 1992, c. 303, § 10, eff. July 1, 1992; Laws 1992, c. 357, § 6, eff. July 1, 1992; Laws 1998, c. 201, § 3, emerg. eff. May 11, 1998; Laws 2001, c. 210, § 11, eff. July 1, 2001.

§22-1355.13A. Death penalty cases - Compensation of attorneys appointed prior to July 1, 1991.

In any case wherein a defendant was subject to the death penalty and counsel was appointed and assigned, prior to July 1, 1991, to represent such defendant in the case because the defendant had no means and was unable to employ counsel, the court shall allow and direct to be paid from the Supreme Court Revolving Fund, unless otherwise provided by law, reasonable and just compensation to the counsel so assigned for such services as counsel may render, to include expert and investigative services, as approved by the Chief Justice of the Supreme Court. This section shall not apply to cases assigned for trial to the Indigent Defense System.

In any case subject to the provisions of this section, wherein the case is reversed and remanded for new trial on appeal, the case shall be assigned pursuant to the Indigent Defense Act, Section

1355.1 et seq. of Title 22 of the Oklahoma Statutes, or pursuant to Section 138.1 et seq. of Title 19 of the Oklahoma Statutes. Added by Laws 1993, c. 245, § 20, eff. July 1, 1993. Amended by Laws 1994, c. 225, § 14, eff. July 1, 1994.

§22-1355.14. Payment of costs of representation - Fee schedule.

A. At the time of pronouncing the judgment and sentence or other final order, the court shall order any person represented by an attorney employed by the Oklahoma Indigent Defense System or a defense attorney who contracts or volunteers to represent indigents pursuant to the provisions of the Indigent Defense Act to pay the costs for representation in total or in installments and, in the case of installment payments, set the amount and due date of each installment.

B. Costs assessed pursuant to this section shall be collected by the court clerk and when collected paid monthly to the Oklahoma Indigent Defense System for deposit to the Indigent Defense System Revolving Fund.

C. Costs of representation shall be a debt against the person represented until paid and shall be subject to any method provided by law for the collection of debts.

D. Any order directing the defendant to pay costs of representation shall be a lien against all real and personal property of the defendant and may be filed against such property and foreclosed as provided by law for civil liens.

E. The court shall assess the following fees as the cost of representation:

1. For any misdemeanor case in which a plea of guilty or stipulation to revocation or imposition of sentence has been entered $150.00
2. For any felony case in which a plea of guilty or stipulation to revocation or imposition of sentence has been entered $250.00
3. For any misdemeanor case tried to a jury $500.00
4. For any felony case tried to a jury $1,000.00
5. For any merit hearing on an application to revoke a suspended sentence or accelerate a deferred sentence in a misdemeanor case $200.00
6. For any merit hearing on an application to revoke a suspended sentence or accelerate a deferred sentence in a felony case $300.00

The fees shall be assessed unless ordered waived upon good cause shown by the indigent person, or unless another amount is specifically requested by counsel for the indigent person and is approved by the court. In cases or proceedings other than those set forth in paragraphs 1 through 6 of this subsection, the court shall assess the cost of representation not to exceed Two Hundred Fifty Dollars ($250.00), except upon a showing by counsel of the actual costs or representation in excess of said amount.
Added by Laws 1991, c. 238, § 15, eff. July 1, 1991. Amended by Laws 1992, c. 303, § 11, eff. July 1, 1992; Laws 1994, c. 229, § 4, eff. Sept. 1, 1994; Laws 1996, c. 251, § 2, eff. July 1, 1996; Laws 1996, c. 301, § 7, eff. July 1, 1996; Laws 1999, c. 197, § 2, emerg. eff. May 24, 1999; Laws 2001, c. 258, § 8, eff. July 1, 2001; Laws 2004, c. 123, § 1, emerg. eff. April 19, 2004.

§22-1355.15. Contempt citations - Payment of reasonable court costs.

The System shall not approve payment of any claims for fines resulting from contempt citations issued to attorneys defending indigent clients. The Indigent Defense Board may, upon recommendation of the Executive Director, approve payment of reasonable court costs resulting from contempt citations issued to attorneys appointed in accordance with the Indigent Defense Act.
Added by Laws 1994, c. 229, § 5, eff. Sept. 1, 1994. Amended by Laws 1996, c. 301, § 8, eff. July 1, 1996; Laws 2001, c. 210, § 12, eff. July 1, 2001.

§22-1355A. Application for representation by the System.

A. When an indigent requests representation by the Oklahoma Indigent Defense System, such person shall submit an appropriate application to the court clerk, which shall state that the application is signed under oath and under the penalty of perjury and that a false statement may be prosecuted as such. The application shall state whether or not the indigent has been released on bond. In addition, if the indigent has been released on bond, the application shall include a written statement from the applicant that the applicant has contacted three named attorneys, licensed to practice law in this state, and the applicant has been unable to obtain legal counsel. A nonrefundable application fee of Forty Dollars ($40.00) shall be paid to the court clerk at the time the application is submitted, and no application shall be accepted without payment of the fee; except that the court may, based upon the financial information submitted, defer all or part of the fee if the court determines that the person does not have the financial resources to pay the fee at time of application, to attach as a court fee upon conviction. Any fees collected pursuant to this subsection shall be retained by the court clerk, deposited in the Court Clerk's

Revolving Fund, and reported quarterly to the Administrative Office of the Courts.

B. 1. The Court of Criminal Appeals shall promulgate rules governing the determination of indigency pursuant to the provisions of Section 55 of Title 20 of the Oklahoma Statutes. The initial determination of indigency shall be made by the Chief Judge of the Judicial District or a designee thereof, based on the defendant's application and the rules provided herein.

2. Upon promulgation of the rules required by law, the determination of indigency shall be subject to review by the Presiding Judge of the Judicial Administrative District. Until such rules become effective, the determination of indigency shall be subject to review by the Court of Criminal Appeals.

C. Before the court appoints the System based on the application, the court shall advise the indigent or, if applicable, a parent or legal guardian, that the application is signed under oath and under the penalty of perjury and that a false statement may be prosecuted as such. A copy of the application shall be sent to the prosecuting attorney or the Office of the Attorney General, whichever is appropriate, for review. Upon request by any party including, but not limited to, the attorney appointed to represent the indigent, the court shall hold a hearing on the issue of eligibility for appointment of the System.

D. If the defendant is admitted to bail and the defendant or another person on behalf of the defendant posts a bond, other than by personal recognizance, the court may consider such fact in determining the eligibility of the defendant for appointment of the System; provided, however, such consideration shall not be the sole factor in the determination of eligibility.

E. The System shall be prohibited from accepting an appointment unless a completed application for court-appointed counsel as provided by Form 13.3 of Section XIII of the Rules of the Court of Criminal Appeals, 22 O.S. 2001, Ch. 18, App., has been filed of record in the case.

Added by Laws 2001, c. 210, § 6, eff. July 1, 2001. Amended by Laws 2002, c. 193, § 1, emerg. eff. May 6, 2002; Laws 2018, c. 194, § 3, eff. Nov. 1, 2018.

§22-1356. Appeals and post-conviction proceedings.

A. The System shall perfect all direct appeals and capital post-conviction proceedings for all cases to which the System is appointed by Oklahoma district courts at the time the appeal is initiated, except as otherwise provided in this section and Section 1358 of this title. In counties subject to the provisions of Section 138.1a of Title 19 of the Oklahoma Statutes, the System shall perfect direct appeals for indigent defendants who were not represented at trial by the county indigent defender. The System shall not be appointed to

perfect direct appeals for indigents represented at trial by the county indigent defender, unless a conflict of interest on appeal exists between defendants, in which case the System may be appointed to represent not more than one defendant.

B. Judges of the district courts shall appoint the System, at the time the appeal is initiated, in cases in which the defendant is subject to incarceration or the death penalty, and to perfect all indigent criminal appeals which are felony or misdemeanor appeals, appeals by petition for writ of certiorari, juvenile criminal appeals and youthful offender appeals pursuant to the Oklahoma Juvenile Code, appeals from revocation of a suspended sentence and appeals from acceleration of deferred judgments.

Added by Laws 1981, c. 207, § 2, emerg. eff. May 26, 1981. Amended by Laws 1988, c. 253, § 5, operative July 1, 1988; Laws 1991, c. 238, § 16, eff. July 1, 1991; Laws 1992, c. 303, § 12, eff. July 1, 1992; Laws 1993, c. 298, § 8, eff. July 1, 1993; Laws 1994, c. 328, § 6, eff. July 1, 1994; Laws 1996, c. 301, § 9, eff. July 1, 1996; Laws 2001, c. 210, § 13, eff. July 1, 2001.

§22-1357. Repealed by Laws 1992, c. 303, § 31, eff. July 1, 1992.

§22-1358. Reassignment of cases.

If the Executive Director determines that a conflict exists after evaluating a case assigned pursuant to Section 1356 of this title, the Executive Director shall reassign the case in the same manner as is provided for conflicts at the trial level in Section 1355.7 of this title, unless the case is from a county subject to the provisions of Section 138.1a of Title 19 of the Oklahoma Statutes and the indigent defendant was not represented at trial by the county indigent defender. If the Executive Director determines a conflict exists in a case from a county subject to the provisions of Section 138.1a of Title 19 of the Oklahoma Statutes and the indigent defendant was not represented at trial by the county indigent defender, the county indigent defender shall be appointed to represent the indigent defendant. The appointment of the county indigent defender shall be made by the district court at the time the appeal is initiated or by the Court of Criminal Appeals after the appeal is initiated. If the district court, at the time the appeal is initiated, or the Court of Criminal Appeals, after the appeal has been initiated, determines that the county indigent defender also has a conflict of interest in the case, the district court, initially or on remand from the Court of Criminal Appeals, shall appoint counsel in the same manner as is provided for conflicts at the trial level in Section 138.7 of Title 19 of the Oklahoma Statutes, by reassigning the case to another county indigent defender, an attorney who represents indigents pursuant to contract, or a private attorney has agreed to accept such appointments.

Added by Laws 1981, c. 207, § 4, emerg. eff. May 26, 1981. Amended by Laws 1992, c. 303, § 13, eff. July 1, 1992; Laws 1994, c. 328, § 7, eff. July 1, 1994; Laws 1996, c. 301, § 10, eff. July 1, 1996; Laws 2001, c. 210, § 14, eff. July 1, 2001.

§22-1359. Renumbered as § 138.9 of Title 19 by Laws 1992, c. 303, § 32, eff. July 1, 1992.

§22-1360. Postconviction proceedings - Representation.

A. The System shall represent indigents in proceedings for postconviction relief in all capital cases.

B. In noncapital cases, the System shall not be appointed to represent indigents in proceedings for postconviction relief; provided, however, the System may represent indigents in postconviction proceedings if the representation is related to another pending case in which the System has been appointed, or the proceeding is necessary to obtain an appeal out of time on behalf of a System client in a case to which the System has been properly appointed.

C. No attorney employed by the System or providing legal services for the System pursuant to contract shall be required to appear in the district courts of this state on issues of appellate counsel appointment and requests for exhibits, records and transcripts.

D. After a mandate has been issued by the Oklahoma Court of Criminal Appeals in any case on direct appeal, the System is prohibited from appealing that case in any further proceedings in either a state or federal court, except in capital cases and in cases provided for in subsection B of this section. In capital cases, the System shall perfect all petitions for writ of certiorari to the United States Supreme Court and represent such appellants or appellees, as the case may be, in any appearance before that Court. Added by Laws 1981, c. 207, § 6, emerg. eff. May 26, 1981. Amended by Laws 1987, c. 153, § 2, eff. Nov. 1, 1987; Laws 1991, c. 238, § 18, eff. July 1, 1991; Laws 1992, c. 303, § 14, eff. July 1, 1992; Laws 1996, c. 301, § 11, eff. July 1, 1996; Laws 1998, c. 201, § 4, emerg. eff. May 11, 1998; Laws 2001, c. 210, § 15, eff. July 1, 2001.

§22-1361. Repealed by Laws 1992, c. 303, § 31, eff. July 1, 1992.

§22-1362. Transmission of records.

The district court clerks for each county shall transmit one certified copy of the original record for each appeal authorized by the Indigent Defense Act directly to the Oklahoma Indigent Defense System as soon as possible after the filing of the notice of intent to appeal and the order appointing the System, unless additional copies are requested, not to exceed three copies. One certified copy

of all transcripts, records and exhibits designated shall be transmitted for each authorized appeal by the district court clerk to the Oklahoma Indigent Defense System within the time limits as established by the Rules of the Court of Criminal Appeals and applicable statutes, unless additional copies are requested, not to exceed three copies. The System attorney is hereby authorized to supplement the designation of record as filed by the trial counsel by filing a written supplemental designation of record. When a written supplemental designation of record is filed by the System attorney, it shall be the duty of the court clerk or the court reporter, as appropriate, to include the supplementary materials as part of the record on appeal.
Added by Laws 1981, c. 207, § 8, emerg. eff. May 26, 1981. Amended by Laws 1986, c. 248, § 1, emerg. eff. June 13, 1986; Laws 1991, c. 238, § 19, eff. July 1, 1991; Laws 1992, c. 303, § 15, eff. July 1, 1992; Laws 1992, c. 357, § 9, eff. July 1, 1992; Laws 1996, c. 301, § 12, eff. July 1, 1996.

§22-1363. Filing of jurisdictional documents.

It shall be the responsibility of the trial counsel to file all jurisdictional documents required to be filed in the district court and the Court of Criminal Appeals to initiate the appeal. The System shall be prohibited from accepting any appeal, unless trial counsel has timely filed all necessary documents or has pursued and been granted the authority for an appeal out of time on the defendant's behalf.
Added by Laws 1981, c. 207, § 9, emerg. eff. May 26, 1981. Amended by Laws 1986, c. 248, § 1, emerg. eff. June 13, 1986; Laws 1992, c. 303, § 16, eff. July 1, 1992; Laws 1996, c. 301, § 13, eff. July 1, 1996; Laws 1997, c. 326, § 5, eff. Nov. 1, 1997; Laws 2001, c. 210, § 16, eff. July 1, 2001.

§22-1364. Notice - Appointment to perfect appeal - Transfer of documents.

It shall be the responsibility of the appropriate judge of the district court to notify the Oklahoma Indigent Defense System of any appointment of the System to perfect an appeal pursuant to the Indigent Defense Act within three (3) days after such appointment. The appointment order shall state the nature of the appeal. The appropriate judge of the district court shall send all necessary documents to insure perfection of the appeal to the Oklahoma Indigent Defense System within the time prescribed in the Rules of the Court of Criminal Appeals or under applicable statutes.
Added by Laws 1981, c. 207, § 10, emerg. eff. May 26, 1981. Amended by Laws 1992, c. 303, § 17, eff. July 1, 1992; Laws 1994, c. 328, § 8, eff. July 1, 1994; Laws 1996, c. 301, § 14, eff. July 1, 1996.

§22-1365. Costs and fees.

All necessary transcript costs and court fees required for perfecting appeals for indigents pursuant to the Indigent Defense Act shall be paid by the defendant if the defendant is financially able to do so. Otherwise, the costs shall be paid from the court fund of the county in which the defendant was convicted.

Added by Laws 1981, c. 207, § 11, emerg. eff. May 26, 1981. Amended by Laws 2001, c. 210, § 17, eff. July 1, 2001.

§22-1366. Time period for appointment of counsel.

The appointment of counsel pursuant to the provisions of the Indigent Defense Act shall commence for indigent criminal defendants on or subsequent to July 1, 1992 for noncapital cases and on July 1, 1991 for capital cases.

Added by Laws 1981, c. 207, § 12, emerg. eff. May 26, 1981. Amended by Laws 1988, c. 253, § 7, operative July 1, 1988; Laws 1991, c. 238, § 20, eff. July 1, 1991; Laws 1992, c. 303, § 18, eff. July 1, 1992.

§22-1367. Volunteers - Liability for professional services.

Any member of the Oklahoma Bar Association who volunteers professional legal services without compensation for purposes of providing trial or appellate legal defense services to an indigent defendant shall not be subject to any liability for volunteered professional services that are performed in conjunction with the representation of said indigent defendant.

Added by Laws 1992, c. 303, § 19, eff. July 1, 1992.

§22-1368. Indigent Defense System Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Indigent Defense System to be designated the "Indigent Defense System Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of federal funds, grants, gifts and such other funds as are provided by law. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Board to defray expenses relating to the performance of duties imposed upon the Oklahoma Indigent Defense System by law. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1988, c. 253, § 8, operative July 1, 1988. Amended by Laws 1991, c. 238, § 21, eff. July 1, 1991; Laws 2012, c. 304, § 93.

§22-1369. Contract Retention Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Indigent Defense System, to be designated the

"Contract Retention Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies retained by the Indigent Defense System, pursuant to the provisions of Section 1355.8 of this title. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Indigent Defense System for the purpose of making contract payments pursuant to paragraph 2 of subsection G of Section 1355.8 of this title. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.
Added by Laws 1993, c. 298, § 9, eff. July 1, 1993. Amended by Laws 2001, c. 210, § 18, eff. July 1, 2001; Laws 2012, c. 304, § 94.

§22-1370. Repealed by Laws 2001, c. 210, § 19, eff. July 1, 2001.

§22-1370.1. Forensic Testing Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Indigent Defense System, to be designated the "Forensic Testing Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations and shall consist of all funds appropriated by the Legislature to the fund or monies received from any political subdivision of the State of Oklahoma as reimbursements or recovery for forensic testing. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Indigent Defense System for the purpose of providing forensic testing. Expenditures shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.
Added by Laws 2001, c. 418, § 1, emerg. eff. June 5, 2001. Amended by Laws 2012, c. 304, § 95.

§22-1371. Short title - Program duration.

A. Sections 1 through 3 of this act shall be known and may be cited as the "DNA Forensic Testing Act".

B. There is hereby created the Oklahoma Indigent Defense System DNA Forensic Testing Program to continue until July 1, 2005.
Added by Laws 2000, c. 276, § 1, eff. July 1, 2000.

§22-1371.1. DNA Forensic Testing Program purpose - Authority of the Oklahoma Indigent Defense System - Claim priority.

A. A DNA Forensic Testing Program shall be created within the Oklahoma Indigent Defense System to investigate, screen, and present to the appropriate prosecutorial agency claims that scientific evidence will demonstrate indigent persons convicted of, and presently incarcerated on, any felony offense upon which the testing

is sought are factually innocent. Factual innocence requires the defendant to establish by clear and convincing evidence that no reasonable jury would have found the defendant guilty beyond a reasonable doubt in light of the new evidence. The System's services shall be available only upon the submission of an affidavit of indigency to the System signed by an incarcerated person convicted of a felony and upon a preliminary determination by the System that the claim has a reasonable basis in fact. Determinations of indigency shall be made at the sole discretion of the System based on rules for determining indigency promulgated by the Court of Criminal Appeals pursuant to the Indigent Defense Act. Determinations of reasonableness and acceptance of cases for which DNA testing will be performed shall be within the sole discretion of the System and shall not be subject to judicial review.

B. The System shall employ such attorneys, investigators, and other employees as may be necessary to process and present claims of factual innocence to the appropriate prosecuting agency in an efficient manner.

C. The System shall give priority to claims based on certain factors, including but not limited to:

1. The opportunity for conclusive or near conclusive proof that the person is factually innocent by reason of scientific evidence; and

2. A lengthy sentence of imprisonment or a death sentence.

D. The System is authorized to investigate cases and arrange for the forensic testing of evidence to determine whether evidence of factual innocence exists. Samples must be of sufficient quantity to allow testing by both the prosecution and the defense. Neither the prosecution nor defense shall consume the entire sample in testing in the absence of a court order allowing the sample to be entirely consumed in testing. The System shall request the Oklahoma State Bureau of Investigation or the city in which the offense upon which the testing is sought was committed to perform the testing. The Bureau or the city may decline for any reason at their discretion in writing within thirty (30) days of receipt of the request. In those cases where the Bureau or city declines or fails to respond within thirty (30) days, or cannot perform the testing within a reasonable time, the System may request the professional services of experts under contract with the System as necessary for testing and presentation of such claims to the appropriate prosecuting agency.

E. All municipal, county and state forensic laboratories shall provide copies to the System of laboratory examination reports regarding cases accepted for investigation by the DNA Forensic Testing Program administered by the Oklahoma Indigent Defense System. The reports shall be confidential and not subject to the Oklahoma Open Records Act. The reports shall be used only for investigating,

screening, and presenting claims pursuant to the provisions of the DNA Forensic Testing Act.

F. Nothing in the DNA Forensic Testing Act shall require any person other than an incarcerate to provide a sample from their body for purposes of testing.

Added by Laws 2000, c. 276, § 2, eff. July 1, 2000. Amended by Laws 2004, c. 123, § 2, emerg. eff. April 19, 2004.

§22-1371.2. Indigent person may request services of Oklahoma Indigent Defense System DNA Forensic Testing Program.

An indigent person convicted of, and presently incarcerated on, any felony offense upon which the testing is sought, who alleges a claim of entitlement to forensic testing for purposes of demonstrating factual innocence may request the services of the Oklahoma Indigent Defense System DNA Forensic Testing Program pursuant to the DNA Forensic Testing Act.

Added by Laws 2000, c. 276, § 3, eff. July 1, 2000.

§22-1372. Biological evidence preservation – Definitions.

A. A criminal justice agency having possession or custody of biological evidence from a violent felony offense, as defined by subsection F of Section 982 of Title 22 of the Oklahoma Statutes, shall retain and preserve that biological evidence for such period of time as any individual convicted of that crime remains incarcerated.

B. As used in this section:

1. "Biological evidence" means physical evidentiary material originating from the human body from which a nuclear DNA profile or mitochondrial DNA sequence can be obtained or representative or derivative samples of such physical evidentiary material collected by a forensic DNA laboratory; and

2. "DNA" means deoxyribonucleic acid.

C. The criminal justice agency in possession or custody of biological evidence may destroy or otherwise dispose of the biological evidence before the expiration of the period of time described in subsection A of this section only if:

1. The agency notifies any person who remains incarcerated in connection with the case, the Oklahoma Indigent Defense System DNA Forensic Testing Program if still applicable, and any counsel of record or public defender organization for the judicial district in which the judgment of conviction for such person was entered, of:

   a. the intention of the agency to destroy the evidence, and

   b. the provisions of the DNA Forensic Testing Act, if still applicable;

2. No person submits a written objection to the destruction of the biological evidence to the agency within ninety (90) days of receiving notice pursuant to paragraph 1 of this subsection; and

3. No other provision of law requires that such biological evidence be preserved.
Added by Laws 2001, c. 52, § 1, eff. July 1, 2001.

§22-1373. Short title - Postconviction DNA Act.
This act shall be known and may be cited as the "Postconviction DNA Act".
Added by Laws 2013, c. 317, § 1, eff. Nov. 1, 2013.

§22-1373.1. Definitions.
As used in the Postconviction DNA Act:
1. "Biological material" means the contents of a sexual assault evidence collection kit as well as any item that contains or includes blood, semen, hair, saliva, skin tissue, fingernail scrapings or parings, bone, bodily fluids or other identifiable biological material that was collected as part of the criminal investigation or may reasonably be used to incriminate or exculpate any person for an offense and that may be suitable for forensic DNA testing. This definition applies whether the material was catalogued separately including, but not limited to, on a swab, a slide or on any other evidence;
2. "DNA" means deoxyribonucleic acid;
3. "Document" or "documents" means any tangible thing upon which any expression, communication or representation has been recorded by any means and includes any writing, electronic writing, recording, drawing, map, graph or chart, photograph and other data compilation in the actual or constructive possession, custody, care or control of the government which pertains directly or indirectly to any matter relevant to the issues in a criminal case; and
4. "Guardian of a convicted person" means a person who is the legal guardian of the convicted person, whether the legal relationship exists because of the age of the convicted person or because of the physical or mental incompetency of the convicted person.
Added by Laws 2013, c. 317, § 2, eff. Nov. 1, 2013.

§22-1373.2. Motion requesting testing.
A. Notwithstanding any other provision of law concerning postconviction relief, a person convicted of a violent felony crime or who has received a sentence of twenty-five (25) years or more and who asserts that he or she did not commit such crime may file a motion in the sentencing court requesting forensic DNA testing of any biological material secured in the investigation or prosecution attendant to the challenged conviction. Persons eligible for testing shall include any and all of the following:
1. Persons currently incarcerated, civilly committed, on parole or probation or subject to sex offender registration;

2. Persons convicted on a plea of not guilty, guilty or nolo contendere;

3. Persons deemed to have provided a confession or admission related to the crime, either before or after conviction of the crime; and

4. Persons who have discharged the sentence for which the person was convicted.

B. A convicted person may request forensic DNA testing of any biological material secured in the investigation or prosecution attendant to the conviction that:

1. Was not previously subjected to DNA testing; or

2. Although previously subjected to DNA testing, can be subjected to testing with newer testing techniques that provide a reasonable likelihood of results that are more accurate and probative than the results of the previous DNA test.

C. The motion requesting forensic DNA testing shall be accompanied by an affidavit sworn to by the convicted person containing statements of fact in support of the motion.

D. Upon receipt of the motion requesting forensic DNA testing, the sentencing court shall provide a copy of the motion to the attorney representing the state and require the attorney for the state to file a response within sixty (60) days of receipt of service or longer, upon good cause shown. The response shall include an inventory of all the evidence related to the case, including the custodian of such evidence.

E. A guardian of a convicted person may submit motions for the convicted person under the provisions of this act and shall be entitled to counsel as otherwise provided to a convicted person pursuant to this act.

Added by Laws 2013, c. 317, § 3, eff. Nov. 1, 2013.

§22-1373.3. Pro se referrals.

The sentencing court, in its discretion, may refer pro se requests for DNA testing to qualified parties willing to accept the referrals for further review without appointing the parties as counsel for the convicted person at that time. Such qualified parties may include, but shall not be limited to, indigent defense organizations or clinical legal education programs.

Added by Laws 2013, c. 317, § 4, eff. Nov. 1, 2013.

§22-1373.4. Hearing - Testing.

A. After the motion requesting forensic DNA testing and subsequent response have been filed, the sentencing court shall hold a hearing to determine whether DNA forensic testing will be ordered. A court shall order DNA testing only if the court finds:

1. A reasonable probability that the petitioner would not have been convicted if favorable results had been obtained through DNA testing at the time of the original prosecution;

2. The request for DNA testing is made to demonstrate the innocence of the convicted person and is not made to unreasonably delay the execution of the sentence or the administration of justice;

3. One or more of the items of evidence the convicted person seeks to have tested still exists;

4. The evidence to be tested was secured in relation to the challenged conviction and either was not previously subject to DNA testing or, if previously tested for DNA, the evidence can be subjected to additional DNA testing that will provide a reasonable likelihood of more probative results; and

5. The chain of custody of the evidence to be tested is sufficient to establish that the evidence has not been substituted, tampered with, replaced or altered in any material respect or, if the chain of custody does not establish the integrity of the evidence, the testing itself has the potential to establish the integrity of the evidence. For purposes of this act, evidence that has been in the custody of law enforcement, other government officials or a public or private hospital shall be presumed to satisfy the chain-of-custody requirement of this subsection absent specific evidence of material tampering, replacement or alteration.

B. If at the close of the hearing the court orders DNA forensic testing to be conducted, the court by written order shall require the attorney representing the state to effect the transfer of the item or items of evidence to be tested along with any documents, logs or reports relating to the items of evidence collected in connection with the criminal case to the designated laboratory or laboratories within thirty (30) days of the order. In addition, the court shall require the attorney representing the state to assist the petitioner in locating any evidence the state contends was lost, destroyed or in the possession of any other governmental entity, public or private hospital, laboratory or other facility.

C. If the attorney representing the state or the petitioner previously conducted any DNA analysis or other biological-evidence testing without the knowledge of the other party, such testing shall be revealed in the motion requesting forensic DNA testing or response.

D. The court may order DNA testing to be performed by the Oklahoma State Bureau of Investigation (OSBI), an accredited laboratory operating under contract with the OSBI or another accredited laboratory, as defined in Section 150.37 of Title 74 of the Oklahoma Statutes. If the OSBI or an accredited laboratory under contract with the OSBI conducts the testing, the state shall bear the costs of the testing. If another laboratory conducts the testing because neither the OSBI nor an accredited laboratory under contract

with the OSBI has the ability or the resources to conduct the type of DNA testing to be performed, or if an accredited laboratory that is neither the OSBI nor under contract with the OSBI is chosen for some other reason, then the court shall require the petitioner to pay for the testing.

E. The results of any postconviction DNA testing conducted under the provisions of this act, including any laboratory reports prepared in connection with the testing, the underlying data or other laboratory documents, shall be disclosed to the petitioner, the attorney for the state and the court.

F. If an accredited laboratory other than the OSBI or one under contract with the OSBI performs the DNA testing, the court shall impose reasonable conditions on the testing of the evidence to protect the interests of the parties in the integrity of the evidence and testing process and to preserve the evidence to the greatest extent possible.

Added by Laws 2013, c. 317, § 5, eff. Nov. 1, 2013.

§22-1373.5. Results - Relief.

A. If the results of the forensic DNA testing conducted under the provisions of this act are favorable to the petitioner, the court shall schedule a hearing to determine the appropriate relief to be granted. Based on the results of the testing and any other evidence presented at the hearing, the court shall thereafter enter any order that serves the interests of justice including, but not limited to, any of the following:

1. An order setting aside or vacating the judgment of conviction, judgment of not guilty by reason of mental disease or defect or adjudication of delinquency;

2. An order granting the petitioner a new trial or fact-finding hearing;

3. An order granting the petitioner a new commitment hearing or dispositional hearing;

4. An order discharging the petitioner from custody;

5. An order specifying the disposition of any evidence that remains after the completion of the testing;

6. An order granting the petitioner additional discovery on matters related to the DNA test results on the conviction or sentence under scrutiny including, but not limited to, documents pertaining to the original criminal investigation or the identities of other suspects; or

7. An order directing the state to place any unidentified DNA profile or profiles obtained from postconviction DNA testing into Oklahoma or federal databases as allowed within applicable state and federal laws.

B. If the results of the tests are not favorable to the petitioner, the court shall:

1. Dismiss the motion; and

2. Make such further orders as the court deems appropriate, including an order that:

a. requires the DNA test results be provided to the Pardon and Parole Board or Department of Corrections, or

b. requests the DNA profile of the petitioner be added to the convicted offender index database of the OSBI Combined DNA Index System (CODIS) Database as provided by law.

Added by Laws 2013, c. 317, § 6, eff. Nov. 1, 2013.

§22-1373.6. Agreement to conduct testing.

A. The filing of a motion for postconviction DNA testing shall not be required if both the state and the convicted person consent and agree to conduct postconviction DNA testing.

B. Notwithstanding any other provision of law governing postconviction relief, if DNA test results obtained under testing conducted upon consent of the parties are favorable to the convicted person, the convicted person may file and the court shall adjudicate an order pursuant to Section 6 of this act for postconviction relief based on the DNA test results.

Added by Laws 2013, c. 317, § 7, eff. Nov. 1, 2013.

§22-1373.7. Appeals.

An appeal under the provisions of the Postconviction DNA Act may be taken in the same manner as any other appeal.

Added by Laws 2013, c. 317, § 8, eff. Nov. 1, 2013.

§22-1401. Short title.

Sections 1401 through 1419 of this title shall be known and may be cited as the "Oklahoma Racketeer-Influenced and Corrupt Organizations Act".

Added by Laws 1988, c. 131, § 1, eff. Nov. 1, 1988. Amended by Laws 2010, c. 456, § 4, eff. Nov. 1, 2010.

§22-1402. Definitions.

As used in the Oklahoma Racketeer-Influenced and Corrupt Organizations Act:

1. "Beneficial interest" includes:

a. the interest of a person as a beneficiary pursuant to a trust, in which the trustee holds legal title to personal or real property, or

b. the interest of a person as a beneficiary pursuant to any other arrangement under which any other person holds legal title to personal or real property for the benefit of such person.

The term beneficial interest does not include the interest of a stockholder in a corporation or the interest of a partner in either a general or limited partnership;

2. "Enterprise" includes any individual, sole proprietorship, partnership, corporation, trust, governmental entity, or other legal entity, or any union, association, unincorporated association or group of persons, associated in fact although not a legal entity, involved in any lawful or unlawful project or undertaking or any foreign organization that the United States Secretary of State has designated a foreign terrorist organization pursuant to Title 8 U.S.C.A., Section 1189;

3. "Innocent party" includes bona fide purchasers and victims;

4. "Lien notice" means the notice pursuant to the provisions of Section 1412 of this title;

5. "Pattern of racketeering activity" means two or more occasions of conduct:

a. that include each of the following:
   (1) constitute racketeering activity,
   (2) are related to the affairs of the enterprise,
   (3) are not isolated, and
   (4) are not so closely related to each other and connected in point of time and place that they constitute a single event, and

b. where each of the following is present:
   (1) at least one of the occasions of conduct occurred after November 1, 1988,
   (2) the last of the occasions of conduct occurred within three (3) years, excluding any period of imprisonment served by any person engaging in the conduct, of a prior occasion of conduct, and
   (3) for the purposes of Section 1403 of this title each of the occasions of conduct constituted a felony pursuant to the laws of this state;

6. "Pecuniary value" means:

a. anything of value in the form of money, a negotiable instrument, or a commercial interest, or anything else, the primary significance of which is economic advantage, or

b. any other property or service that has a value in excess of One Hundred Dollars ($100.00);

7. "Person" means any individual or entity holding or capable of holding a legal or beneficial interest in property;

8. "Personal property" includes any personal property, or any interest in such personal property, or any right, including bank accounts, debts, corporate stocks, patents or copyrights. Personal property and beneficial interest in personal property shall be deemed

to be located where the trustee, the personal property, or the instrument evidencing the right is located;

9. "Principal" means a person who engages in conduct constituting a violation of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act or who is legally accountable for the conduct of another who engages in a violation of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act;

10. "Racketeering activity" means engaging in, attempting to engage in, conspiring to engage in, or soliciting, coercing, or intimidating another person to engage in any conduct which is chargeable or indictable as constituting a felony violation of one or more of the following provisions of the Oklahoma Statutes, regardless of whether such act is in fact charged or indicted:

a. relating to homicide pursuant to the provisions of Section 651, 652, 653, 701.7, 701.8, 701.16, 711 or 716 of Title 21 of the Oklahoma Statutes or relating to concealment of homicidal death pursuant to the provisions of Section 543 of Title 21 of the Oklahoma Statutes,

b. relating to kidnapping pursuant to the provisions of Section 741, 745, 891 or 1119 of Title 21 of the Oklahoma Statutes,

c. relating to sex offenses pursuant to the provisions of Section 886, 888, 1021, 1021.2, 1021.4, 1024.2, 1111, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes,

d. relating to bodily harm pursuant to the provisions of Section 645, 650, 650.2, 1289.16, 1302, 1303 or 1767.1 of Title 21 of the Oklahoma Statutes,

e. relating to theft, where the offense constitutes a felony, pursuant to the provisions of Section 1704, 1707, 1708, 1709, 1710, 1711, 1713, 1716, 1719, 1720, 1721, 1722, 1723 or 1731 of Title 21 of the Oklahoma Statutes,

f. relating to forgery pursuant to the provisions of Section 1561, 1562, 1571, 1572, 1574, 1575, 1577, 1578, 1579, 1580, 1581, 1582, 1583, 1584, 1585, 1586, 1587, 1588, 1589, 1590, 1591 or 1593 of Title 21 of the Oklahoma Statutes,

g. relating to robbery pursuant to the provisions of Section 797, 800 or 801 of Title 21 of the Oklahoma Statutes,

h. relating to burglary pursuant to the provisions of Section 1431, 1435 or 1437 of Title 21 of the Oklahoma Statutes,

i. relating to arson pursuant to the provisions of Section 1368, 1401, 1402, 1403 or 1404 of Title 21 of the Oklahoma Statutes,
j. relating to use or possession of a firearm or other offensive weapon while committing or attempting to commit a felony pursuant to the provisions of Section 1287, 1289.20 or 1289.21 of Title 21 of the Oklahoma Statutes,
k. relating to gambling pursuant to the provisions of Section 941, 942, 944, 945, 946, 948, 954, 956, 957, 969, 970, 971, 981, 982, 983, 984, 985, 986, 987, 991 or 992 of Title 21 of the Oklahoma Statutes,
l. relating to bribery in contests pursuant to the provisions of Section 399 or 400 of Title 21 of the Oklahoma Statutes,
m. relating to interference with public officers pursuant to the provisions of Section 434, 436, 437, 438, 439, 440, 441, 443, 444, 521, 522, 532, 540, 543, 545 or 546 of Title 21 of the Oklahoma Statutes,
n. relating to interference with judicial procedure pursuant to the provisions of Section 388, 453, 455, 456, 491, 496 or 504 of Title 21 of the Oklahoma Statutes,
o. relating to official misconduct pursuant to the provisions of Section 380, 381, 382, 383, 384, 385, 386, 389, 390, 950 or 976 of Title 21 of the Oklahoma Statutes, or Section 3404 of Title 74 of the Oklahoma Statutes,
p. relating to the Uniform Controlled Dangerous Substances Act, where the offense constitutes a felony, pursuant to the provisions of Section 2-101 et seq. of Title 63 of the Oklahoma Statutes,
q. relating to automobile theft pursuant to the provisions of Section 4-102, 4-103, 4-107, 4-108, 4-109 or 4-110 of Title 47 of the Oklahoma Statutes,
r. relating to embezzlement pursuant to the provisions of Section 1412 of Title 6 of the Oklahoma Statutes, Section 641 of Title 19 of the Oklahoma Statutes, Section 341, 531 or 1451 of Title 21 of the Oklahoma Statutes, Section 163.4 of Title 37 of the Oklahoma Statutes, Section 1025 of Title 64 of the Oklahoma Statutes or Section 1361 of Title 68 of the Oklahoma Statutes,
s. relating to extortion, where the offense constitutes a felony, pursuant to the provisions of Section 1304, 1481, 1482, 1485, 1486 or 1488 of Title 21 of the Oklahoma Statutes,

t. relating to fraud, where the offense constitutes a felony, pursuant to the provisions of Section 208.6, 208.7 or 208.8 of Title 3A of the Oklahoma Statutes, Section 753 of Title 15 of the Oklahoma Statutes, Section 552.14a of Title 18 of the Oklahoma Statutes, Section 358, 1411, 1412, 1413, 1414, 1415, 1416, 1503, 1521, 1541.1, 1541.2, 1541.3, 1542, 1543, 1544, 1550.2, 1550.22, 1550.23, 1550.24, 1550.25, 1550.26, 1550.27, 1550.28, 1550.29, 1550.30, 1550.31, 1550.32, 1632, 1635 or 1662 of Title 21 of the Oklahoma Statutes, Section 243 of Title 56 of the Oklahoma Statutes, or Section 604 of Title 62 of the Oklahoma Statutes,

u. relating to conspiracy, where the offense constitutes a felony, pursuant to the provisions of Section 421, 422 or 424 of Title 21 of the Oklahoma Statutes,

v. relating to prostitution, pornography or obscenity pursuant to the provisions of Section 1021, 1040.52, 1081, 1085, 1086, 1087 or 1088 of Title 21 of the Oklahoma Statutes,

w. relating to the Oklahoma Alcoholic Beverage Control Act, where the offense constitutes a felony, pursuant to the provisions of Section 506.1 et seq. of Title 37 of the Oklahoma Statutes,

x. relating to the Oklahoma Uniform Securities Act of 2004, where the offense constitutes a felony, pursuant to the provisions of Sections 1-101 through 1-701 of Title 71 of the Oklahoma Statutes,

y. relating to human trafficking or trafficking in children pursuant to the provisions of Section 748, 866 or 867 of Title 21 of the Oklahoma Statutes,

z. relating to illegal aliens pursuant to the provisions of Section 446 of Title 21 of the Oklahoma Statutes,

aa. relating to organized voter fraud pursuant to the provisions of Section 16-102, 16-102.1, 16-102.2, 16-103, 16-103.1, 16-104, 16-105, 16-106, 16-113, 16-120 or 16-123.1 of Title 26 of the Oklahoma Statutes,

bb. relating to terrorism and terrorist activities pursuant to the provisions of the Sabotage Prevention Act or the Oklahoma Antiterrorism Act,

cc. relating to exploitation of elderly persons or disabled adults pursuant to the provisions of Section 843.4 of Title 21 of the Oklahoma Statutes,

dd. relating to computer crimes pursuant to the provisions of Sections 1953 and 1958 of Title 21 of the Oklahoma Statutes,

ee. relating to unlawful proceeds pursuant to the provisions of Section 2001 of Title 21 of the Oklahoma Statutes,

ff. relating to insurance fraud pursuant to the provisions of Section 311.1 of Title 36 of the Oklahoma Statutes, or

gg. relating to workers' compensation fraud pursuant to the provisions of Section 1663 of Title 21 of the Oklahoma Statutes.

In addition, "racketeering activity" may be proven by proof of engaging in, attempting to engage in, conspiring to engage in, or soliciting, coercing, or intimidating another person to engage in any of the above described conduct within another state, regardless of whether said conduct is chargeable or indictable in that state;

11. "Real property" means any real property or any interest in real property, including any lease of, or mortgage upon real property. Real property and beneficial interest in real property shall be deemed to be located where the real property is located;

12. "Trustee" includes trustees, a corporate as well as a natural person and a successor or substitute trustee in accordance with the Oklahoma Trust Act; and

13. "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is unenforceable in the courts of Oklahoma, because the debt was incurred or contracted in violation of a law relating to the business of gambling activity or in violation of federal or state law but does not include any debt owed to a bank, savings and loan association, credit union or supervised lender licensed by the Oklahoma Administrator of Consumer Credit or to any debt referred or assigned to a debt collection agency, which referral or assignment is accepted in good faith by the debt collection agency as a debt collectible under the Uniform Commercial Code or other laws of this state and enforceable in the courts of this state.

Added by Laws 1988, c. 131, § 2, eff. Nov. 1, 1988. Amended by Laws 1989, c. 348, § 19, eff. Nov. 1, 1989; Laws 1993, c. 156, § 2, emerg. eff. May 7, 1993; Laws 2010, c. 456, § 5, eff. Nov. 1, 2010; Laws 2013, c. 234, § 1, eff. Nov. 1, 2013.

§22-1403. Participation in pattern of racketeering activity or collection of unlawful debt prohibited - Investment of funds prohibited - Conspiracy to violate prohibition - Venue of actions.

A. No person employed by or associated with any enterprise shall conduct or participate in, directly or indirectly, the affairs of the enterprise through a pattern of racketeering activity or the collection of an unlawful debt.

B. No person, through a pattern of racketeering activity or through the collection of an unlawful debt, shall acquire or

maintain, directly or indirectly, any interest in or control of any enterprise or real property.

C. No person who has received any proceeds derived, directly or indirectly, from a pattern of racketeering activity, or through the collection of any unlawful debt, in which the person participated as a principal, shall use or invest, directly or indirectly, any part of the proceeds or any proceeds derived from the investment or use of any of those proceeds in the acquisition of any right, title, or interest in real property or in the establishment or operation of any enterprise.

A purchase of securities on the open market with intent to make an investment, and without the intent of controlling or participating in the control of the issuer or of assisting another to do so, shall not be unlawful pursuant to the provisions of this section if the securities of the issuer held by the purchaser, the members of the immediate family of the purchaser, and accomplices of the purchaser or immediate family of the purchaser in any pattern of racketeering activity, or the collection of an unlawful debt after the purchase, do not amount in the aggregate to one percent (1%) of the outstanding securities of any one class and do not confer the power to elect one or more directors of the issuer.

D. No person shall attempt to violate or conspire with others to violate the provisions of subsection A, B or C of this section.

E. Venue for a civil or criminal action to enforce the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act shall be in any county in which at least one act of racketeering activity is alleged to have occurred in the petition or information or indictment, it being the intent of this act, that one district court have jurisdiction over all the conduct, persons and property subject to this act.

Added by Laws 1988, c. 131, § 3, eff. Nov. 1, 1988. Amended by Laws 2010, c. 456, § 6, eff. Nov. 1, 2010.

§22-1404. Penalties for violating Section 1403 - Persons authorized to institute proceedings.

A. Any person convicted of violating any provision of Section 1403 of this title shall be punished by a term of imprisonment in the custody of the Department of Corrections of not less than ten (10) years and shall not be eligible for a deferred sentence, probation, suspension, work furlough, or release from confinement on any other basis until the person has served one-half (1/2) of the sentence. A violation of each of the provisions of Section 1403 of this title shall be a separate offense.

B. In lieu of the fine authorized by the Oklahoma Racketeer-Influenced and Corrupt Organizations Act, any person convicted of violating any provision of Section 1403 of this title, through which

the person derived pecuniary value, or by which the person caused personal injury, or property damage or other loss, may be sentenced to pay a fine that does not exceed three times the gross value gained or three times the gross loss caused, whichever is greater, plus court costs and the costs of investigation and prosecution reasonably incurred, less the value of any property ordered forfeited pursuant to the provisions of subsection A of Section 1405 of this title. The district court shall hold a separate hearing to determine the amount of the fine authorized by the provisions of this subsection.

C. No person shall institute any proceedings, civil or criminal, pursuant to the provisions of this act, except the Attorney General, any district attorney or any district attorney appointed under the provisions of Section 215.9 of Title 19 of the Oklahoma Statutes. Added by Laws 1988, c. 131, § 4, eff. Nov. 1, 1988. Amended by Laws 1997, c. 133, § 440, eff. July 1, 1999; Laws 1999, 1st Ex. Sess., c. 5, § 324, eff. July 1, 1999; Laws 2010, c. 456, § 7, eff. Nov. 1, 2010.

NOTE: Laws 1998, 1st Ex. Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 440 from July 1, 1998, to July 1, 1999.

§22-1405. Criminal forfeiture procedures.

A. Any person convicted of violating any of the provisions of Section 1403 of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act shall criminally forfeit to the state, according to the procedures established in subsection B of this section, any real or personal property used in the course of, intended for use in the course of, derived from, or realized through conduct in violation of Section 1403 of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act, including any property constituting an interest in or means of control or influence over the enterprise involved in the conduct in violation of Section 1403 of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act, including:

1. Any compensation, right, or benefit derived from a position, office, appointment, tenure, commission, or employment contract that accrued to the person during the course of conduct in violation of Section 1403 of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act;

2. Any interest in, security of, claim against, or property or contractual right affording the person a source of influence or control over the affairs of an enterprise that the person exercised in violation of Section 1403 of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act; or

3. Any amount payable or paid pursuant to any contract for goods or services that was awarded or performed in violation of Section 1403 of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act.

B. The criminal forfeiture procedures are as follows:

1. A judgment of criminal forfeiture shall not be entered unless a special verdict containing a finding of property subject to forfeiture, specifying the extent of such property and describing with specificity such property and the circumstances by which the property is subject to forfeiture is returned; and

2. If any property included in a special verdict of criminal forfeiture:

a. cannot be located,
b. has been sold to a bona fide purchaser for value,
c. has been placed beyond the jurisdiction of the court,
d. has been substantially diminished in value by the conduct of the defendant,
e. has been commingled with other property that cannot be divided without difficulty or undue injury to innocent parties,
f. is otherwise unreachable without undue injury to innocent parties, or
g. is subject to a valid security interest, to the extent of the security interest, held by a bank, savings and loan association, credit union or supervised lender licensed by the Oklahoma Administrator of Consumer Credit, acquired prior to the lien notice provided by Section 1412 of this title,

the district court shall order forfeiture of any other property of the defendant up to the value of the property that is unreachable.
Added by Laws 1988, c. 131, § 5, eff. Nov. 1, 1988. Amended by Laws 2010, c. 456, § 8, eff. Nov. 1, 2010.

§22-1406. Action which may be taken by district court after filing of indictment of information and hearing.

After the filing of an indictment or information by the Attorney General or district attorney and after a hearing with respect to which any person who shall be affected has been given thirty (30) days' notice and opportunity to participate, the district court may, based on the indictment or information and the hearing:

1. Enter a restraining order or injunction;

2. Require the execution of satisfactory bond in the amount of ten percent (10%) of the property value; or

3. Take any other action, including the appointment of a receiver, that the Attorney General or district attorney shows by a preponderance of the evidence is necessary to preserve the property which may be subject to criminal forfeiture.
Added by Laws 1988, c. 131, § 6, eff. Nov. 1, 1988. Added by Laws 1988, c. 131, § 6, eff. Nov. 1, 1988.

§22-1407. Action which may be taken by district court after entry of judgment.

Following the entry of a judgment that includes a fine or an order of criminal forfeiture pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act, or both, the district court may enter a restraining order or an injunction, require the execution of a satisfactory bond, or take any other action, including the appointment of a receiver, that the district court deems proper to protect the interests of the state.

An order of criminal forfeiture shall authorize the Attorney General or district attorney to seize the property declared forfeited upon such terms and conditions, relating to the time and manner of seizure, as the district court shall deem proper.

Added by Laws 1988, c. 131, § 7, eff. Nov. 1, 1988. Amended by Laws 2010, c. 456, § 9, eff. Nov. 1, 2010.

§22-1408. Criminal fines and penalties under act not exclusive.

Criminal penalties and fines pursuant to the Oklahoma Racketeer-Influenced and Corrupt Organizations Act are supplemental and not mutually exclusive, except when so designated, and shall not preclude the application of any other criminal or civil remedy pursuant to any other provision of the law.

Added by Laws 1988, c. 131, § 8, eff. Nov. 1, 1988. Amended by Laws 2010, c. 456, § 10, eff. Nov. 1, 2010.

§22-1409. Civil proceedings.

A. The Attorney General, any district attorney or any district attorney appointed under the provisions of Section 215.9 of Title 19 of the Oklahoma Statutes may institute civil proceedings against any person in an appropriate district court seeking relief from conduct constituting a violation of any provisions of Section 1403 of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act with the right to a trial by jury at the request of either party. If the plaintiff in such a proceeding proves the alleged violation by a preponderance of the evidence, the district court, after making due provisions for the rights of innocent parties, may grant relief by entering any appropriate order of judgment, including:

1. Ordering any defendant to divest himself of any interest in any enterprise or any real property;

2. Imposing reasonable restrictions upon the future activities or investments of any defendant, including prohibiting any defendant from engaging in the same type of endeavor as the enterprise in which the defendant was engaged in violation of Section 1403 of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act;

3. Ordering the dissolution or reorganization of any enterprise;

4. Ordering the suspension or revocation of a license, permit, or prior approval granted to any enterprise by an agency of the state; or

5. Ordering the surrender of the charter of a corporation organized pursuant to the laws of the state or the revocation of a certificate authorizing a foreign corporation to conduct business within the state.

In a proceeding initiated pursuant to the provisions of this section, injunctive relief shall be granted in conformity with the principles that govern the granting of relief from injury or threatened injury in other cases, but no showing of special or irreparable injury shall be required. Pending final determination of a proceeding initiated pursuant to the provisions of this section, a temporary restraining order or a preliminary injunction may be issued upon a showing of immediate danger of significant injury, including the possibility that any judgment for money damages might be difficult to execute, and, in a proceeding initiated by an aggrieved person, upon the execution of a bond in the amount of ten percent (10%) of the value of the property against injury for an injunction improvidently granted. If the district court issues an injunction or grants other relief pursuant to the provisions of this section, the plaintiff shall also recover costs, including reasonable attorney fees and costs of investigation and litigation reasonably incurred.

B. The civil penalty imposed pursuant to this section shall not exceed One Hundred Thousand Dollars ($100,000.00), with no offset for the value of any property criminally forfeited or any fine imposed pursuant to the Oklahoma Racketeer-Influenced and Corrupt Organizations Act. This amount shall be applied to the costs and expenses of investigation and prosecution, and the balance, if any, shall be paid pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act.

C. Upon the filing of a civil action pursuant to the provisions of subsection A or B of this section, a district attorney shall immediately notify the Attorney General of its filing. Upon timely application, the Attorney General may intervene as a party in any civil action or proceeding brought pursuant to subsection A or B of this section if the Attorney General certifies that the action or proceeding is of general public importance.

D. A final judgment or decree rendered against the defendant in any civil or criminal proceeding pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act, shall estop the defendant in any subsequent civil action or proceeding brought by any person as to all matters as to which the judgment or decree would be an estoppel as between the parties to a civil or criminal proceeding.

E. A civil action or proceeding pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act may

be commenced at any time within five (5) years after the conduct made unlawful pursuant to the provisions of Section 1403 of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act terminates or the cause of action accrues. If a criminal proceeding or civil action or other proceeding is brought by or intervention is granted to the state to punish, prevent, or restrain any activity made unlawful pursuant to the provisions of Section 1403 of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act, the running of the period of limitations prescribed by this section with respect to any cause of action of an aggrieved person, based in whole or in part upon any matter complained of in any such prosecution, action, or proceeding shall be suspended during the pendency of such prosecution, action, or proceeding and for two (2) years following its termination.

F. Service of process in an action pursuant to the provisions of this section may be made upon any person outside the state if the person was a principal in any conduct constituting a violation of the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act in this state. The person shall be deemed to have thereby submitted himself to the jurisdiction of the courts of this state for the purposes of this section.

G. The application of any civil remedy pursuant to the provisions of this section shall not preclude the application of any other civil or criminal remedy pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act or any other provision of law. Civil remedies pursuant to the provisions of this section are supplemental and not mutually exclusive.

Added by Laws 1988, c. 131, § 9, eff. Nov. 1, 1988. Amended by Laws 2010, c. 456, § 11, eff. Nov. 1, 2010.

§22-1410. Disposal of forfeited property.

A. Upon approval of the district court, the Attorney General or district attorney shall dispose of all property ordered forfeited in any criminal proceeding pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act as soon as feasible, making due provisions for the rights of innocent parties, by:

1. Public sale;

2. Transfer to a state, county or local governmental agency for official use;

3. Sale or transfer to an innocent party; or

4. Destruction, if the property is not needed for evidence in any pending criminal or civil proceeding.

B. Any property right not exercisable by, or transferable for value to the state shall not revert to the defendant. No defendant or any person acting in concert with the defendant or on behalf of

the defendant shall be eligible to purchase forfeited property from the state.

C. With respect to property ordered forfeited in any criminal proceeding pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act, the Attorney General, district attorney or other prosecutorial officer designated by the Attorney General is authorized to:

1. Compromise claims;

2. Award compensation to persons providing information resulting in a forfeiture pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act; and

3. Petition the court to mitigate or remit a forfeiture or to restore forfeited property to victims of a violation of Section 1403 of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act.

D. The proceeds of any sale or other disposition of forfeited property imposed pursuant to the Oklahoma Racketeer-Influenced and Corrupt Organizations Act shall be applied as follows:

1. To a bona fide innocent purchaser, conditional sales vendor, or mortgagee of the forfeited property up to the amount of the interest held by the person in the forfeited property;

2. To the fees and costs of the forfeiture and sale, including expenses of seizure, maintenance, and custody of the property pending its disposition, advertising, and the court costs;

3. To all costs and expenses of investigation and prosecution, including costs of resources and personnel incurred in investigation and prosecution; and

4. The balance to the credit of the Attorney General, district attorney, or law enforcement agencies in such proportions as are represented by the costs and expenses of investigation and prosecution as provided in the Oklahoma Racketeer-Influenced and Corrupt Organizations Act.

Added by Laws 1988, c. 131, § 10, eff. Nov. 1, 1988. Amended by Laws 2010, c. 456, § 12, eff. Nov. 1, 2010.

§22-1411. Certain proceeds of forfeitures to be deposited with State Treasury to cover cost of investigation and prosecution - Expenditure.

A. The balance of the proceeds of all forfeitures ordered pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act shall be transmitted to the State Treasury and deposited in such proportions as determined by the court as are represented by the costs and expenses of such investigation and prosecution as follows:

1. Any proceeds resulting from the investigation and prosecution by a county or municipal law enforcement agency or district attorney pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act shall be deposited in a revolving fund in

the office of the county treasurer of the county wherein the forfeiture was ordered to be maintained and expended by the district attorney in the discretion of the district attorney for the purposes specified in subsection B of this section with a yearly accounting to the board of county commissioners in whose county the fund is established and to the District Attorneys Council;

2. Any proceeds resulting from the investigation and prosecution by the Oklahoma State Bureau of Investigation or the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act shall be deposited in the agency special account established pursuant to the provisions of Section 7.2 of Title 62 of the Oklahoma Statutes for the Oklahoma State Bureau of Investigation or the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;

3. Any proceeds resulting from the investigation and prosecution by the Attorney General pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act shall be deposited in the Attorney General's Evidence Fund pursuant to the provisions of Section 19 of Title 74 of the Oklahoma Statutes; and

4. Any proceeds resulting from the investigation and prosecution by any other agency of this state pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act shall be deposited in the appropriate revolving fund, agency special account or other fund for that agency as determined by the State Treasurer.

B. Monies deposited in such funds and accounts pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act shall be expended for the purpose of the costs and expenses of investigation and prosecution, whether criminally or civilly, of conduct made unlawful by the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act, including costs of resources and personnel.

Added by Laws 1988, c. 131, § 11, eff. Nov. 1, 1988. Amended by Laws 1990, c. 264, § 26, operative July 1, 1990; Laws 2010, c. 456, § 13, eff. Nov. 1, 2010.

§22-1412. Lien notice.

A. At any time after the institution of any civil proceeding or at any time after the filing of an indictment or information pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act, the state may file a lien notice in the official records as may be required for perfecting a security interest for any given property. A filing fee in the amount as required by law for the filing of a mechanic's or materialmen's lien shall be required as a condition for filing the lien notice, and the county clerk, upon the presentation of such lien notice, shall immediately record it in the official records.

B. The lien notice shall be signed by the Attorney General or by a district attorney. The notice shall be in such form as the Attorney General prescribes and shall set forth the following information:

1. The name of the person against whom the proceeding has been brought or who has been charged or indicted for a violation of this act and any other names under which the person may be known. The Attorney General or district attorney may also name in the lien notice any enterprise that is either controlled by or entirely owned by the person;

2. If known to the Attorney General or district attorney, the present residence and business addresses of the persons named in the lien notice;

3. A reference to the criminal or civil proceeding stating that a proceeding pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act has been brought against the person named in the lien notice or that the person has been charged or indicted for a violation of this act, the name of the county or counties where the proceeding has been brought or the conviction was made and any other lien notices filed, and, if known to the Attorney General or district attorney at the time of filing the lien notice, the case number of the proceeding;

4. A statement that the notice is being filed pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act; and

5. The name and address of the Attorney General or the district attorney filing the lien notice.

A lien notice shall apply only to one person and, to the extent applicable, the names of enterprises, to the extent permitted in this section. A separate lien notice shall be filed for any other person against whom the Attorney General or district attorney desires to file a lien notice pursuant to the provisions of this section.

C. Within ten (10) days after filing of each lien notice, the Attorney General or district attorney shall furnish to the person named in the notice by certified mail, return receipt requested, to the last-known business or residential address, a copy of the recorded notice. In the event the person cannot be served by certified mail, service may be by publication pursuant to Section 2004 of Title 12 of the Oklahoma Statutes.

D. From the time of its filing, a lien notice creates a lien in favor of the state on the following property of the person named in the notice:

1. Any personal or real property owned by the person under any name set forth in the lien notice which is situated in the county where the notice is filed; and

2. Any beneficial interest of said property owned by the person under any name located in the county where the notice is filed.

The lien shall commence and attach as of the time of filing of the lien notice and shall continue thereafter until expiration, termination, or release of the lien. The lien created in favor of the state shall be superior and prior to the interest of any other person in the personal or real property or beneficial interest in said property, if the interest is acquired subsequent to the filing of the notice.

E. In conjunction with any civil proceeding:

1. The Attorney General or district attorney may file without prior court order in any county a lis pendens pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act. In that event, any person acquiring an interest in the subject real property or beneficial interest in it after the filing of the lis pendens, shall take the interest subject to the civil proceeding and any subsequent judgment of forfeiture; and

2. If a lien notice has been filed, the Attorney General or district attorney may name as defendants, in addition to the person named in the notice, any person acquiring an interest in the personal or real property or beneficial interest in it subsequent to the filing of the notice. If a judgment of forfeiture is entered in the proceeding in favor of the state, the interest of any person in the property that was acquired subsequent to the filing of the notice and judgment of forfeiture shall be subject to the notice and judgment of forfeiture.

F. Upon the entry of a final judgment of forfeiture in favor of the state, the title to the forfeited real property shall be transferred to the state and shall be recorded in the official records of the county where the real property or a beneficial interest in it is located.

In the case of personal property or a beneficial interest in it, the property shall be seized if not already in possession of the state and disposed of in accordance with the Oklahoma Racketeer-Influenced and Corrupt Organizations Act.

G. If personal or real property or a beneficial interest in it subject to forfeiture is conveyed, alienated, disposed of, or otherwise rendered unavailable for forfeiture after the filing of a lien notice, the state may treat it as a fraudulent and preferential conveyance and may institute an action in any district court against the person named in the lien notice, the defendant in the civil proceeding or the person convicted in the criminal proceeding; and the court shall enter final judgment against such person or any beneficial interest in it together with investigative costs and attorneys fees incurred by the state in the action. If a civil proceeding is pending, such action shall be filed only in the court where such civil proceeding is pending.

H. The filing of a lien notice shall not affect the use to which personal or real property or a beneficial interest in it owned by the

person named in the racketeering lien may be entitled to or the right of the person to receive any avails, rents, or other proceeds resulting from the use and ownership of the property, except for the conveyance of said property, until a judgment of forfeiture is entered.

I. The term of a lien notice shall be for a period of six (6) years from the date of filing unless a renewal lien notice has been filed by the Attorney General or district attorney. In this event, the term of the renewal lien notice shall be for a period of six (6) years from the date of its filing. The Attorney General or district attorney shall be entitled to only one renewal of the lien notice.

J. The Attorney General or district attorney filing the lien notice may release in whole or in part any lien notice or may release any personal or real property or beneficial interest in it from the lien notice upon such terms and conditions as the Attorney General or district attorney may determine. Any release of a lien notice executed by the Attorney General or district attorney may be filed in the official records of any county. No charge or fee shall be imposed for the filing of any release of a lien notice.

K. If no civil proceeding has been instituted by the Attorney General or district attorney seeking a forfeiture of any property owned by the person named in the lien notice, the acquittal in the criminal proceeding of the person named in the lien notice or the dismissal of the criminal proceeding, shall terminate the lien notice. If the civil proceeding has been instituted, in the event the criminal proceeding has been dismissed or the person named in the lien notice has been acquitted in the criminal proceeding, the lien notice shall continue for the duration of the civil proceeding.

L. If no civil proceeding or criminal proceeding is then pending against the person named in the lien notice, any person named in a lien notice may apply to the district court in the county where the notice has been filed for the release or extinguishment of the notice and the district court shall enter a judgment extinguishing the lien notice or releasing the personal or real property or beneficial interest in it from the lien notice.

M. In the event a civil proceeding is pending against a person named in a lien notice, the district court upon motion by the person may grant the relief provided for in this section at a hearing held for that purpose:

1. If a sale of the personal or real property or beneficial interest in it is pending and the filing of the notice prevents the sale of the property or interest, the district court shall immediately enter its order releasing from the lien notice any specific personal or real property or beneficial interest in it. The proceeds resulting from the sale of the personal or real property or beneficial interest in it shall be deposited with the clerk of the

district court, subject to the further order of the district court; and

2. At the hearing, the district court may release from the lien notice any personal or real property or beneficial interest in it upon the posting by such person of such security as is equal to the value of the personal or real property or beneficial interest in it owned by such person.

Added by Laws 1988, c. 131, § 12, eff. Nov. 1, 1988. Amended by Laws 2010, c. 456, § 14, eff. Nov. 1, 2010.

§22-1413. Duties of trustee on filing of lien notice - Liability.

A. A trustee, who acquires actual knowledge that a lien notice or a civil proceeding or criminal proceeding has been filed against any person for whom the trustee holds legal or record title to personal or real property, shall immediately furnish to the Attorney General or district attorney the following:

1. The name and address of the person;

2. The name and address of all other persons for whose benefit the trustee holds title to the personal or real property; and

3. If requested by the Attorney General or district attorney, a copy of the trust agreement or other instrument pursuant to which the trustee holds legal or record title to the personal or real property. Any trustee who fails to comply with the provisions of this section, upon conviction, is guilty of a felony.

B. Any trustee having notice of the filing of the lien notice, who transfers or conveys title to personal or real property on which said notice has been filed, shall not be liable to the state for the greater of:

1. The amount of proceeds received directly by the person named in the lien notice as a result of the transfer or conveyance;

2. The amount of proceeds received by the trustee as a result of the transfer or conveyance and distributed to the person named in the lien notice; or

3. The fair market value of the interest of the person named in the lien notice in the personal or real property transferred or conveyed; but if the trustee transfers or conveys the personal or real property for at least its fair market value and holds the proceeds that would otherwise be paid or distributed to the beneficiary or at the direction of the beneficiary or designee of the beneficiary, the liability of the trustee shall not exceed the amount of the proceeds held for so long as the proceeds are held by the trustee.

C. The filing of a lien notice shall not constitute a lien on the record title to personal or real property owned by the trustee except to the extent the trustee is named in the lien notice. The Attorney General or district attorney may bring a civil proceeding in

any district court against the trustee to recover from the trustee the amounts set forth in the Oklahoma Racketeer-Influenced and Corrupt Organizations Act, and the state shall also be entitled to recover investigative costs and attorneys fees incurred by the Attorney General or district attorney.

D. The provisions of this section shall not apply to any transfer or conveyance by a trustee pursuant to a court order, unless the court order is entered in an action between the trustee and the beneficiary.

Added by Laws 1988, c. 131, § 13, eff. Nov. 1, 1988. Amended by Laws 2010, c. 456, § 15, eff. Nov. 1, 2010.

§22-1414. Foreign corporations - Applicability of act.

Each foreign corporation doing business in this state that fails to file a report or fails to comply with the provisions of Section 1130 of Title 18 of the Oklahoma Statutes shall be subject to the jurisdiction of the State of Oklahoma for purposes of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act.

Added by Laws 1988, c. 131, § 14, eff. Nov. 1, 1988. Amended by Laws 2010, c. 456, § 16, eff. Nov. 1, 2010.

§22-1415. Investigation of conduct constituting violation of Section 1403 of title.

A. When any person has engaged in, is engaged in, or is attempting or conspiring to engage in any conduct constituting a violation of any of the provisions of Section 1403 of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act, the Attorney General or district attorney may conduct an investigation of the conduct. On approval of the district judge, the Attorney General or district attorney in accordance with the provisions of Section 258 of Title 22 of the Oklahoma Statutes is authorized before the commencement of any civil or criminal proceeding pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act to subpoena witnesses, compel their attendance, examine them under oath, or require the production of any business papers or records by subpoena duces tecum, except that such evidence taken shall not be receivable in any civil proceeding.

B. Any business papers and records subpoenaed by the Attorney General or district attorney shall be available for examination by the person who produced the material or by any duly authorized representative of the person. Transcripts of oral testimony shall be available for examination by the person who produced such testimony, or counsel of the person.

Except as otherwise provided for in this section, no business papers or records or transcripts or oral testimony, or copies of it,

subpoenaed by the Attorney General or district attorney shall be available for examination by an individual other than another law enforcement official without the consent of the person who produced the business papers or records or transcript.

C. All persons served with a subpoena by the Attorney General or district attorney pursuant to the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act shall be paid the same fees and mileage as paid witnesses in the courts of this state.

D. No person shall, with intent to avoid, evade, prevent, or obstruct compliance in whole or in part by any person with any duly served subpoena of the Attorney General or district attorney pursuant to the provisions of this section, knowingly remove from any place, conceal, withhold, destroy, mutilate, alter, or by any other means falsify any business papers or records that are the subject of the subpoena ducus tecum. A violation of the provisions of this subsection, upon conviction, is a misdemeanor.

Added by Laws 1988, c. 131, § 15, eff. Nov. 1, 1988. Amended by Laws 2010, c. 456, § 17, eff. Nov. 1, 2010.

§22-1416. Civil action in federal court authorized.

The Attorney General or district attorney may bring an action on behalf of the state, counties, municipalities, and other political subdivisions organized pursuant to the authority of this state in federal court for civil relief pursuant to any comparable provision of federal law. No action brought by the Attorney General or district attorney pursuant to the provisions of this section shall impair the authority of any county, municipality, or political subdivision to bring the action on its own behalf or impair its authority to engage its own counsel in connection with the action.

Added by Laws 1988, c. 131, § 16, eff. Nov. 1, 1988.

§22-1417. Judicial education and training.

Each judicial district shall select one or more of its district judges or associate district judges and if deemed necessary may also select one or more special judges to receive specialized education and training in applying the provisions of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act.

A program of judicial education and training shall be prepared and administered by the Administrative Office of the Courts. Such program and any materials shall be made available as needed to assist Oklahoma judges in applying the provisions of this act.

When available, the funds described in Section 1411 of this title may be used to help defray the expenses of such program.

Added by Laws 1988, c. 131, § 17, eff. Nov. 1, 1988. Amended by Laws 2010, c. 456, § 18, eff. Nov. 1, 2010.

§22-1418. Audit of monies received by state or local government under act.

Any monies received by any office of state or local government under this act shall be subject to an annual audit by the State Auditor and Inspector.

Added by Laws 1988, c. 131, § 18, eff. Nov. 1, 1988.

§22-1419. Construction of act in conformity with federal law.

When the language of the Oklahoma Racketeer-Influenced and Corrupt Organizations Act is the same or similar to the language of Title 18 U.S.C., Sections 1961 through 1968, the courts of this state in construing the Oklahoma Racketeer-Influenced and Corrupt Organizations Act may follow the construction given to federal law by the federal courts, provided that nothing in this section shall be deemed to provide for any private right of action or confer any civil remedy except as specifically set out in this act.

Added by Laws 1988, c. 131, § 19, eff. Nov. 1, 1988. Amended by Laws 2010, c. 456, § 19, eff. Nov. 1, 2010.

§22-1501. Repealed by Laws 2009, c. 178, § 14.

§22-1502. Repealed by Laws 2009, c. 178, § 14.

§22-1503. Repealed by Laws 2009, c. 178, § 14.

§22-1504. Repealed by Laws 2009, c. 178, § 14.

§22-1505. Repealed by Laws 1997, c. 254, § 4, emerg. eff. May 23, 1997.

§22-1506. Repealed by Laws 1997, c. 254, § 4, emerg. eff. May 23, 1997.

§22-1507. Repealed by Laws 2009, c. 178, § 14.

§22-1508. Repealed by Laws 2009, c. 178, § 14.

§22-1509. Repealed by Laws 2009, c. 178, § 14.

§22-1510. Repealed by Laws 2001, c. 377, § 7, eff. July 1, 2001.

§22-1511. Repealed by Laws 2001, c. 377, § 7, eff. July 1, 2001.

§22-1512. Repealed by Laws 2009, c. 178, § 14.

§22-1513. Repealed by Laws 1997, c. 133, § 604, emerg. eff. April 22, 1997.

§22-1514. Purposes and policies of the criminal justice and corrections systems.

The following purposes and policies of the criminal justice and corrections systems are hereby established:

1. Protection of the public. Incarceration should be viewed by the court both as punishment and as a means of protecting the public. Limitations on the freedom of the offender and the appropriate level of custody should be dictated in the first instance by the nature of the offense, the violent character of the offender, the proclivity of the offender to engage in criminal conduct as demonstrated by his criminal record, and the sound judgment of the sentencing court after taking into account all of the relevant aggravating and mitigating factors involved in the offender's record of criminal conduct.

2. Punishment of the offender. After the interests of public protection have been addressed, consideration should be given to restriction of the liberty of the offender in such manner and to such extent as is necessary to demonstrate clearly that the offender's conduct is unacceptable to society and to discourage a repetition of such conduct. In determining the appropriate punishment, the court should consider a range of sanctions at the state or community level which may include incarceration, various degrees of restrictions on the offender's liberty including house arrest, electronic monitoring, various degrees of supervision, community penalties, community service, restitution, reparation, or fines.

3. Rehabilitation of the offender. Every sentencing plan should consider treatment and rehabilitative needs of the offender to the extent that it addresses the cause of the criminal behavior and, therefore, might assist in correcting such behavior. The offender should be enrolled in a program of rehabilitation over a definite minimal period of time. The program of rehabilitation should involve work and recreation and may involve education, psychological or psychiatric counseling, treatment for alcohol or drug abuse and sexual aggression either within or without the prison walls as the individual case may indicate. The court may recommend remedies for alcoholism, substance abuse, mental illness, education and employment deficiencies, and may order community-based offenders to pay for such treatment to the extent the offender is able. Public institutions should respond to the court order at no cost to the indigent offender. Where treatment is not available from public institutions, the state should purchase appropriate treatment from the private sector.

4. Restitution and reparation. When appropriate, the sentencing plan should provide for restitution or reparation to the victim or victims, whether they be individual citizens, corporations, or

society as a whole, to be paid as soon as practicable. Such restitution or reparation should include repayment for any property stolen or damaged, medical costs and lost wages of the victims, court costs and reasonable costs to cover pretrial detention, and restitution to the community through community service. In those cases where the offender can be punished and rehabilitated outside of prison without jeopardizing the security of the society at large in their persons or property, it is appropriate and encouraged that the offender pay his debt to society through a range of punishments which are alternative to incarceration. The court should order such supervision or restrictions as deemed necessary for the offender to comply with the restitution orders. Failure to comply should result in stricter measures.

5. Work policy for offenders. It is the policy of this state that offenders should work when reasonably possible, either at jobs in the private sector to pay restitution and support their dependents, or at community service jobs that benefit the public, or at useful work while in prison or jail, or at educational or treatment endeavors as a part of a rehabilitation program. Offenders should be offered the opportunity to reduce the duration of their sentences by earning "time" credit for work endeavors in achieving vocational or educational skill levels. Prisoners who are able and do not work or who refuse to participate in treatment programs should be prohibited from enjoying privileges which may be provided to inmates beyond those required by law.

6. Responsibility of Department of Corrections. It is the goal of the Department of Corrections to provide adequate prison space to ensure that those sentenced to prison will remain incarcerated until such time as they can be safely released, or until their active sentences are completed, and to provide community-based supervision for those offenders selected for supervised probation and parole by the courts and the Pardon and Parole Board.

It is the mission of the Department to provide housing, clothing, food and medical care to its inmates, to maintain a safe and secure prison system, to keep accurate records, to offer job training, education, counseling, work and treatment programs deemed appropriate to monitor and advance the rehabilitative progress of its inmates, to provide a fair and orderly progression through custody levels, and to make data and recommendations regarding parole available to the Pardon and Parole Board. As an inmate demonstrates that he is no longer a threat to society, that the punishment has been effective and that a program of rehabilitation is showing progress, the inmate's level of custody may be commensurately reduced in an orderly progression through custody levels to parole and release from supervision.

It is the mission of the Department of Corrections to receive convicted offenders selected by the courts and the Pardon and Parole

Board and to protect society through a coordinated program of community supervision which provides realistic opportunities for probationers and parolees to develop skills necessary to adjust to free society. As a probationer or parolee demonstrates that the supervision has been effective and that a community treatment program is showing progress, the level of supervision may be commensurately reduced in an orderly progression to prepare for release from supervision.
Added by Laws 1994, c. 355, § 14, eff. July 1, 1994.

§22-1515. Repealed by Laws 1997, c. 133, § 604, emerg. eff. April 22, 1997.

§22-1516. Repealed by Laws 2009, c. 178, § 14.

§22-1517. Oklahoma State Bureau of Investigation - Duties.

A. The Oklahoma State Bureau of Investigation shall be the entity recognized by the Bureau of Justice Statistics as the Statistical Analysis Center.

B. In addition to other duties specified by law, the duties of the Oklahoma State Bureau of Investigation shall be to:

1. Provide a clearinghouse for criminal justice information;

2. Provide a central contact point for federal, state, and local criminal justice agencies;

3. Provide technical assistance for all criminal justice agencies of this state;

4. Provide consultation for criminal justice agencies of this state in preparing reports, gaining funding, or preparing information;

5. Obtain information from criminal justice agencies in this state for analyses of criminal justice issues;

6. Collect and analyze criminal justice data;

7. Produce reports for state and local criminal justice agencies;

8. Facilitate information networking between criminal justice agencies;

9. Attend meetings concerning criminal justice issues;

10. Represent this state at national meetings including, but not limited to, meetings or conferences of criminal justice statistics associations of other states;

11. Assist in developing resources for the criminal justice system;

12. Address pertinent issues related to prevention and intervention programs;

13. Provide assistance to the Oklahoma Crime Stoppers Association;

14. Create and publish by December 1 each year a uniform reporting standard for citing state criminal statutes to be used in reporting information to and from all criminal justice information systems within this state. The uniform reporting standard shall be developed in consultation with the Administrative Office of the Courts, the Department of Corrections, the District Attorneys Council, the Department of Public Safety through the Oklahoma Law Enforcement Telecommunications System Division, and the Office of Juvenile Affairs. The uniform reporting standard shall be used by all criminal justice information systems and shall be the standard for reporting arrests, criminal and juvenile delinquency charges, charge and case dispositions, custody records, and any other record purporting to identify a criminal history record or information relating to arrests, charges, custody, adjudication, conviction, and disposition of criminal or juvenile matters; and

15. Monitor all changes to state crime statutes within ninety (90) days of the Legislature's adjournment sine die for purposes of including any changes in law or new offenses within the uniform reporting standard.

Added by Laws 1990, c. 147, § 1, operative July 1, 1990. Amended by Laws 1997, c. 254, § 1, emerg. eff. May 23, 1997; Laws 1998, c. 276, § 6, eff. July 1, 1998; Laws 2001, c. 122, § 1, eff. July 1, 2001; Laws 2001, c. 377, § 5, eff. July 1, 2001; Laws 2003, c. 340, § 2, emerg. eff. May 29, 2003. Renumbered from § 508.2 of Title 57 by Laws 2003, c. 340, § 3, emerg. eff. May 29, 2003. Amended by Laws 2009, c. 178, § 6; Laws 2010, c. 37, § 3, eff. Nov. 1, 2010; Laws 2011, c. 95, § 1, eff. Nov. 1, 2011.

§22-1518. Oklahoma Criminal Justice Resource Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma State Bureau of Investigation to be designated the "Oklahoma Criminal Justice Resource Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all grants, gifts, bequests and any other lawful monies received for the benefit of the Bureau. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Director of the Bureau for the operation of the Bureau in furtherance of its duties as set forth in Section 1517 of this title or other purposes authorized by law.

Added by Laws 1997, c. 333, § 25, eff. July 1, 1997. Amended by Laws 2001, c. 377, § 6, eff. July 1, 2001. Renumbered from § 508.2b of Title 57 by Laws 2003, c. 340, § 3, emerg. eff. May 29, 2003. Amended by Laws 2009, c. 178, § 7.

§22-1519. Criminal Justice Computer Assistance Act - Offender Data Information System.

A. This section shall be known and may be cited as the "Criminal Justice Computer Assistance Act".

B. The Oklahoma State Bureau of Investigation is directed to implement and administer a data information system called the "Offender Data Information System", subject to funding. The purpose of the System shall be to:

1. Provide software and support to interested criminal justice agencies to assist in record keeping and data reporting functions;

2. Provide a uniform method for sharing data and information from existing databases operated by participating agencies; and

3. Transmit data and other information from participating criminal justice agencies to other local, state and federal agencies upon request or as necessary.

C. The Bureau is directed to develop procedures for the administration, participation, operation and use of the Offender Data Information System.

D. Any criminal justice agency of this state may voluntarily participate in the Offender Data Information System. The Bureau may charge a reasonable user fee for those criminal justice agencies that participate in the Offender Data Information System. All monies received from such fees shall be deposited in the OSBI Revolving Fund.

E. Nothing in this section shall be construed to compel participation of any state or local criminal justice agency in the Offender Data Information System.

Added by Laws 2004, c. 547, § 1, eff. July 1, 2004. Amended by Laws 2009, c. 178, § 8.

§22-1601. Creation – Powers and duties.

A. There is hereby created the Domestic Violence Fatality Review Board within the Office of the Attorney General. The Board shall have the power and duty to:

1. Coordinate and integrate state and local efforts to address fatal domestic violence and create a body of information to prevent domestic violence deaths;

2. Collect, analyze and interpret state and local data on domestic violence deaths;

3. Develop a state and local database on domestic violence deaths;

4. Improve the ability to provide protective services to victims of domestic violence who may be living in a dangerous environment;

5. Improve policies, procedures and practices within the agencies that serve victims of domestic violence; and

6. Enter into agreements with other state, local or private entities as necessary to carry out the duties of the Domestic Violence Fatality Review Board including, but not limited to, conducting joint reviews with the Child Death Review Board on

domestic violence cases involving child death or child near-death incidents.

B. In carrying out its duties and responsibilities, the Board shall:

1. Promulgate rules establishing criteria for identifying cases involving a domestic violence death subject to specific, in-depth review by the Board;

2. Conduct a specific case review of those cases where the cause of death is or may be related to domestic violence;

3. Establish and maintain statistical information related to domestic violence deaths, including, but not limited to, demographic and medical diagnostic information;

4. Establish procedures for obtaining initial information regarding domestic violence deaths from law enforcement agencies;

5. Review the policies, practices, and procedures of the domestic violence protection and prevention system and make specific recommendations to the entities comprising the domestic violence prevention and protection system for actions necessary for the improvement of the system;

6. Review the extent to which the state domestic violence prevention and protection system is coordinated with law enforcement and the court system and evaluate whether the state is efficiently discharging its domestic violence prevention and protection responsibilities;

7. Request and obtain a copy of all records and reports pertaining to a domestic violence death case of the victim, perpetrator or any other person cohabitating in the domicile at the time of the fatality that is under review, including, but not limited to:

a. the report of the medical examiner,
b. hospital records,
c. school records,
d. court records,
e. prosecutorial records,
f. local, state, and federal law enforcement records, including, but not limited to, the Oklahoma State Bureau of Investigation (OSBI),
g. fire department records,
h. State Department of Health records, including birth certificate records,
i. medical and dental records,
j. Department of Mental Health and Substance Abuse Services and other mental health records,
k. emergency medical service records,
l. files of the Department of Human Services, and

m. records in the possession of the Child Death Review Board when conducting a joint review pursuant to paragraph 6 of subsection A of this section.

Confidential information provided to the Board shall be maintained by the Board in a confidential manner as otherwise required by state and federal law. Any person damaged by disclosure of such confidential information by the Board or its members which is not authorized by law may maintain an action for damages, costs and attorney fees pursuant to The Oklahoma Governmental Tort Claims Act;

8. Maintain all confidential information, documents and records in possession of the Board as confidential and not subject to subpoena or discovery in any civil or criminal proceedings; provided, however, information, documents and records otherwise available from other sources shall not be exempt from subpoena or discovery through those sources solely because such information, documents and records were presented to or reviewed by the Board;

9. Conduct reviews of specific cases of domestic violence deaths and request the preparation of additional information and reports as determined to be necessary by the Board including, but not limited to, clinical summaries from treating physicians, chronologies of contact, and second opinion autopsies;

10. Report, if recommended by a majority vote of the Board, to the President Pro Tempore of the Senate and the Speaker of the House of Representatives any gross neglect of duty by any state officer or state employee, or any problem within the domestic violence prevention and protection system discovered by the Board while performing its duties; and

11. Exercise all incidental powers necessary and proper for the implementation and administration of the Domestic Violence Fatality Review Board.

C. The review and discussion of individual cases of a domestic violence death shall be conducted in executive session. All other business shall be conducted in accordance with the provisions of the Oklahoma Open Meeting Act. All discussions of individual cases and any writings produced by or created for the Board in the course of determining a remedial measure to be recommended by the Board, as the result of a review of an individual case of a domestic violence death, shall be privileged and shall not be admissible in evidence in any proceeding. The Board shall periodically conduct meetings to discuss organization and business matters and any actions or recommendations aimed at improvement of the domestic violence prevention and protection system which shall be subject to the Oklahoma Open Meeting Act. Part of any meeting of the Board may be specifically designated as a business meeting of the Board subject to the Oklahoma Open Meeting Act.

D. The Board shall submit an annual statistical report on the incidence and causes of domestic violence deaths in this state for

which the Board has completed its review during the past calendar year including its recommendations, if any, to the domestic violence prevention and protection system. The Board shall also prepare and make available to the public, on an annual basis, a report containing a summary of the activities of the Board relating to the review of domestic violence deaths, the extent to which the state domestic violence prevention and protection system is coordinated and an evaluation of whether the state is efficiently discharging its domestic violence prevention and protection responsibilities. The report shall be completed no later than February 1 of the subsequent year.
Added by Laws 2001, c. 284, § 1, eff. July 1, 2001. Amended by Laws 2007, c. 20, § 1; Laws 2008, c. 324, § 3, eff. July 1, 2008; Laws 2009, c. 178, § 9; Laws 2013, c. 309, § 1, eff. Nov. 1, 2013; Laws 2017, c. 14, § 1, eff. Nov. 1, 2017.

§22-1602. Domestic Violence Fatality Review Board - Administrative assistance from Office of the Attorney General.

A. The Domestic Violence Fatality Review Board shall be composed of twenty (20) members, or their designees, as follows:

1. Eight of the members shall be:
   a. the Chief Medical Examiner,
   b. a designee of the Attorney General. The designee shall be a person assigned to the Victims Services Unit of the Office of the Attorney General,
   c. the State Commissioner of Health,
   d. the Chief of Injury Prevention Services of the State Department of Health,
   e. the Director of the Department of Human Services,
   f. the Director of the Oklahoma State Bureau of Investigation,
   g. the Commissioner of the Department of Mental Health and Substance Abuse Services, and
   h. the Executive Director of the Office of Juvenile Affairs; and

2. Twelve of the members shall be appointed by the Attorney General, shall serve for terms of two (2) years and shall be eligible for reappointment. The members shall be persons having training and experience in matters related to domestic violence. The appointed members shall include:
   a. a county sheriff selected from a list of three names submitted by the executive board of the Oklahoma Sheriffs' Association,
   b. a chief of a municipal police department selected from a list of three names submitted by the Oklahoma Association of Chiefs of Police,

c. an attorney licensed in this state who is in private practice selected from a list of three names submitted by the Board of Governors of the Oklahoma Bar Association,
d. a district attorney selected from a list of three names submitted by the District Attorneys Council,
e. a physician selected from a list of three names submitted by the Oklahoma State Medical Association,
f. a physician selected from a list of three names submitted by the Oklahoma Osteopathic Association,
g. a nurse selected from a list of three names submitted by the Oklahoma Nurses Association,
h. two individuals, at least one of whom shall be a survivor of domestic violence, selected from lists of three names submitted by the Oklahoma Coalition Against Domestic Violence and Sexual Assault,
i. a member of the Judiciary selected from a list of three names submitted by the Oklahoma Supreme Court, and
j. two individuals, at least one of whom shall be an American Indian survivor of domestic violence, selected from a list of three names submitted by the Native Alliance Against Violence, Oklahoma's tribal coalition against domestic violence and sexual assault.

B. Every two (2) years the Board shall elect from among its membership a chair and a vice-chair. The Board shall meet at least quarterly and may meet more frequently as necessary as determined by the chair. Members shall serve without compensation but may be reimbursed for necessary travel out of funds available to the Office of the Attorney General pursuant to the State Travel Reimbursement Act; provided, that the reimbursement shall be paid in the case of state employee members by the agency employing the member.

C. With funds appropriated or otherwise available for that purpose, the Office of the Attorney General shall provide administrative assistance and services to the Domestic Violence Fatality Review Board.

Added by Laws 2001, c. 284, § 2, eff. July 1, 2001. Amended by Laws 2005, c. 348, § 17, eff. July 1, 2005; Laws 2006, c. 136, § 4, eff. Nov. 1, 2006; Laws 2009, c. 178, § 10; Laws 2009, c. 427, § 1, eff. Nov. 1, 2009; Laws 2019, c. 147, § 1, eff. Nov. 1, 2019.

§22-1603. Collection of data relating to victim protective orders.

A. If funds are available, the Office of the Attorney General annually shall collect data on the number of victim protective orders issued in each county and the number of violations of victim protective orders in each county.

B. The Office of the Attorney General shall provide this information to the Domestic Violence Fatality Review Board and the Administrative Office of the Courts.
Added by Laws 2003, c. 407, § 6, eff. Nov. 1, 2003. Amended by Laws 2009, c. 178, § 11.

§22-1701. Creation of Criminal Justice Reclassification Coordination Council.

A. There is hereby created the Criminal Justice Reclassification Coordination Council, hereinafter referred to as the "Council". The Council shall review and recommend the following:

1. The classification of all felonies under Oklahoma law into appropriate categories;

2. Appropriate sentence lengths for each class of felonies;

3. Appropriate enhanced sentences for crimes committed after offenders have been convicted of other crimes; and

4. Other appropriate changes that will improve the criminal justice system in Oklahoma and ensure the pubic safety of its citizens.

The recommendations of the Council shall be intended to reduce or hold neutral the prison population. The Council shall consider fiscal impact statements of all recommendations of the Council.

B. The Council shall be comprised of twenty-two (22) members to be selected as follows:

1. The Attorney General for the State of Oklahoma, or designee;

2. A district attorney for a county or district with a population of five hundred thousand (500,000) or more as determined by the latest Federal Decennial Census, to be selected by the Oklahoma District Attorneys Council, or designee;

3. A district attorney for a county or district with a population of five hundred thousand (500,000) or less as determined by the latest Federal Decennial Census, to be selected by the Oklahoma District Attorneys Council, or designee;

4. A chief of police of a municipality with a population of three hundred fifty thousand (350,000) or more as determined by the latest Federal Decennial Census, to be selected by the Oklahoma Association of Chiefs of Police, or designee;

5. A chief of police of a municipality with a population of three hundred fifty thousand (350,000) or less as determined by the latest Federal Decennial Census, to be selected by the Oklahoma Association of Chiefs of Police, or designee;

6. A sheriff of a county with a population of fifty thousand (50,000) or more as determined by the latest Federal Decennial Census, to be selected by the Oklahoma Sheriffs' Association, or designee;

7. A sheriff of a county with a population of fifty thousand (50,000) or less as determined by the latest Federal Decennial

Census, to be selected by the Oklahoma Sheriffs' Association, or designee;

8. The Director of the Oklahoma Department of Corrections, or designee;

9. A public defender of a county with a population of three hundred fifty thousand (350,000) or more as determined by the latest Federal Decennial Census, to be selected by the Administrative Director of the Courts, or designee;

10. The Executive Director of the Oklahoma Indigent Defense System, or designee;

11. The Commissioner of the Oklahoma Department of Mental Health and Substance Abuse Services, or designee;

12. The Director of the Oklahoma State Bureau of Investigation, or designee;

13. The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, or designee;

14. The Administrative Director of the Courts, or designee;

15. The Executive Director of the Oklahoma Pardon and Parole Board, or designee;

16. The Director of the Oklahoma Coalition on Domestic Violence and Sexual Assault, or designee;

17. The president of the State Chamber of Commerce, or designee;

18. The president of a local chamber of commerce, to be appointed by the Governor, or designee;

19. The Governor of the State of Oklahoma, or designee;

20. The President Pro Tempore of the Oklahoma State Senate, or designee;

21. The Speaker of the Oklahoma House of Representatives, or designee; and

22. A retired district judge, as selected by the Presiding Judge of the Court of Criminal Appeals, or designee.

C. The chair of the Council shall be elected by majority vote of the Council members attending the initial meeting. The Council shall elect any other officers during the first meeting and upon a vacancy in any office.

D. The chair shall call the first meeting and all subsequent meetings shall be made at the call of the chair. The Council may meet as often as may be required in order to perform the duties imposed upon it.

E. A quorum of the Council shall be required to approve any final action and recommendation of the Council. For purposes of this section, eleven members of the Council shall constitute a quorum.

F. The meetings of the Council shall be subject to the Oklahoma Open Meetings Act.

G. The members of the Council shall receive no compensation, but travel reimbursement may be provided by their respective

organizations within the limits provided for state employees in the Oklahoma State Travel Reimbursement Act.

H. Administrative support for the Council shall be provided by the Office of the Attorney General.

I. The Council shall submit a report of its findings and recommendations annually by December 31, 2018, and the same day each year thereafter to the Governor, the President Pro Tempore of the Oklahoma State Senate and the Speaker of the Oklahoma House of Representatives.

Added by Laws 2018, c. 311, § 1.

§22-2001. Short title - Scope.

Sections 1 and 2 of this act shall be known and may be cited as the "Oklahoma Criminal Discovery Code". The Oklahoma Criminal Discovery Code shall govern the procedure for discovery in all criminal cases in all courts in this state.

Added by Laws 1994, c. 292, § 1, eff. Sept. 1, 1994.

§22-2002. Disclosure of evidence - Continuing duty to disclose - Time of discovery - Regulation of discovery - Reasonable cost of copying, duplicating, and videotaping.

A. Disclosure of Evidence by the State.

1. Upon request of the defense, the state shall be required to disclose the following:

a. the names and addresses of witnesses which the state intends to call at trial, together with their relevant, written or recorded statement, if any, or if none, significant summaries of any oral statement,

b. law enforcement reports made in connection with the particular case,

c. any written or recorded statements and the substance of any oral statements made by the accused or made by a codefendant,

d. any reports or statements made by experts in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments, or comparisons,

e. any books, papers, documents, photographs, tangible objects, buildings or places which the prosecuting attorney intends to use in the hearing or trial or which were obtained from or belong to the accused,

f. any record of prior criminal convictions of the defendant, or of any codefendant, and

g. Oklahoma State Bureau of Investigation (OSBI) rap sheet/records check on any witness listed by the state or the defense as a witness who will testify at trial, as well as any convictions of any witness revealed

through additional record checks if the defense has furnished social security numbers or date of birth for their witnesses, except OSBI rap sheet/record checks shall not provide date of birth, social security number, home phone number or address.

2. The state shall provide the defendant any evidence favorable to the defendant if such evidence is material to either guilt or punishment.

3. The prosecuting attorney's obligations under this standard extend to:

a. material and information in the possession or control of members of the prosecutor's staff,

b. any information in the possession of law enforcement agencies that regularly report to the prosecutor of which the prosecutor should reasonably know, and

c. any information in the possession of law enforcement agencies who have reported to the prosecutor with reference to the particular case of which the prosecutor should reasonably know.

B. Disclosure of Evidence by the Defendant.

1. Upon request of the state, the defense shall be required to disclose the following:

a. the names and addresses of witnesses which the defense intends to call at trial, together with their relevant, written or recorded statement, if any, or if none, significant summaries of any oral statement,

b. the name and address of any witness, other than the defendant, who will be called to show that the defendant was not present at the time and place specified in the information or indictment, together with the witness' statement to that fact,

c. the names and addresses of any witness the defendant will call, other than himself, for testimony relating to any mental disease, mental defect, or other condition bearing upon his mental state at the time the offense was allegedly committed, together with the witness' statement of that fact, if the statement is redacted by the court to preclude disclosure of privileged communication.

2. A statement filed under subparagraph a, b or c of paragraph 1 of subsection A or B of this section is not admissible in evidence at trial. Information obtained as a result of a statement filed under subsection A or B of this section is not admissible in evidence at trial except to refute the testimony of a witness whose identity subsection A of this section requires to be disclosed.

3. Upon the prosecuting attorney's request after the time set by the court, the defendant shall allow him access at any reasonable

times and in any reasonable manner to inspect, photograph, copy, or have reasonable tests made upon any book, paper, document, photograph, or tangible object which is within the defendant's possession or control and which:

a. the defendant intends to offer in evidence, except to the extent that it contains any communication of the defendant, or

b. is a report or statement as to a physical or mental examination or scientific test or experiment made in connection with the particular case prepared by and relating to the anticipated testimony of a person whom the defendant intends to call as a witness, provided the report or statement is redacted by the court to preclude disclosure of privileged communication.

C. Continuing Duty to Disclose.

If, prior to or during trial, a party discovers additional evidence or material previously requested or ordered, which is subject to discovery or inspection under the Oklahoma Criminal Discovery Code, such party shall promptly notify the other party, the attorney of the other party, or the court of the existence of the additional evidence or material.

D. Time of Discovery.

Motions for discovery may be made at the time of the district court arraignment or thereafter; provided that requests for police reports may be made subject to the provisions of Section 258 of this title. However, a request pursuant to Section 258 of this title shall be subject to the discretion of the district attorney. All issues relating to discovery, except as otherwise provided, will be completed at least ten (10) days prior to trial. The court may specify the time, place and manner of making the discovery and may prescribe such terms and conditions as are just.

E. Regulation of Discovery.

1. Protective and Modifying Orders. Upon motion of the state or defendant, the court may at any time order that specified disclosures be restricted, or make any other protective order. If the court enters an order restricting specified disclosures, the entire text of the material restricted shall be sealed and preserved in the records of the court to be made available to the appellate court in the event of an appeal.

2. Failure to Comply with a Request. If at any time during the course of the proceedings it is brought to the attention of the court that a party has failed to comply with this rule, the court may order such party to permit the discovery or inspection, grant continuance, or prohibit the party from introducing evidence not disclosed, or it may enter such other order as it deems just under the circumstances.

3. The discovery order shall not include discovery of legal work product of either attorney which is deemed to include legal research

or those portions of records, correspondence, reports, or memoranda which are only the opinions, theories, or conclusions of the attorney or the attorney's legal staff.

F. Reasonable cost of copying, duplicating, videotaping, developing or any other cost associated with this Code for items requested shall be paid by the party so requesting; however, any item which was obtained from the defendant by the state of which copies are requested by the defendant shall be paid by the state. Provided, if the court determines the defendant is indigent and without funds to pay the cost of reproduction of the required items, the cost shall be paid by the Indigent Defender System, unless otherwise provided by law.

Added by Laws 1994, c. 292, § 2, eff. Sept. 1, 1994. Amended by Laws 1996, c. 304, § 4, emerg. eff. June 10, 1996; Laws 1998, c. 155, § 1, eff. Nov. 1, 1998; Laws 2002, c. 460, § 23, eff. Nov. 1, 2002.

§22-410. Immaterial informalities to be disregarded.

No indictment or information is insufficient, nor can the trial, judgment, or other proceedings thereon be affected, by reason of a defect or imperfection in the matter of form which does not tend to the prejudice of the substantial rights of the defendant upon the merits.

R.L.1910, § 5747.

§22-991av1. Sentencing powers of court - Alcohol and drug assessment and evaluation - Restitution, fines or incarceration - Victim impact statements - Probation and monitoring - DNA samples.

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

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

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

b. to reimburse any state agency for amounts paid by the state agency for hospital and medical expenses incurred

by the victim or victims, as a result of the criminal act for which such person was convicted, which reimbursement shall be made directly to the state agency, with interest accruing thereon at the rate of twelve percent (12%) per annum,

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

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

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

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

g. to repay the reward or part of the reward paid by a local certified crime stoppers program and the Oklahoma Reward System. In determining whether the defendant shall repay the reward or part of the reward, the court shall consider the ability of the defendant to make the payment, the financial hardship on the defendant to make the required payment, and the importance of the information to the prosecution of the defendant as provided by the arresting officer or the district attorney with due regard for the confidentiality of the records of the local certified crime stoppers program and the Oklahoma Reward System. The court shall assess this repayment against the defendant as a cost of prosecution. The term "certified" means crime stoppers organizations that annually meet the certification standards for crime stoppers programs established by

the Oklahoma Crime Stoppers Association to the extent those standards do not conflict with state statutes. The term "court" refers to all municipal and district courts within this state. The "Oklahoma Reward System" means the reward program established by Section 150.18 of Title 74 of the Oklahoma Statutes,

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

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

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

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

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

m. to be placed in a victims impact panel program, as defined in subsection H of this section, or victim/offender reconciliation program and payment of a fee to the program of not less than Fifteen Dollars ($15.00) nor more than Sixty Dollars ($60.00) as set by the governing authority of the program to offset the cost of participation by the defendant. Provided, each victim/offender reconciliation program shall be required to obtain a written consent form voluntarily signed by the victim and defendant that specifies the methods to be used to resolve the issues, the obligations and rights of each person, and the confidentiality of the proceedings. Volunteer mediators and employees of a victim/offender reconciliation program shall be immune from liability and have rights of confidentiality as provided in Section 1805 of Title 12 of the Oklahoma Statutes,

n. to install, at the expense of the defendant, an ignition interlock device approved by the Board of Tests for Alcohol and Drug Influence. The device shall be installed upon every motor vehicle operated by the defendant, and the court shall require that a notation of this restriction be affixed to the defendant's driver license. The restriction shall remain on the driver license not exceeding two (2) years to be determined by the court. The restriction may be modified or removed only by order of the court and notice of any modification order shall be given to the Department of Public Safety. Upon the expiration of the period for the restriction, the Department of Public Safety shall remove the restriction without further court order. Failure to comply with the order to install an ignition interlock device or operating any vehicle without a device during the period of restriction shall be a violation of the sentence and may be punished as deemed proper by the sentencing court. As used in this paragraph, "ignition interlock device" means a device that, without tampering or intervention by another person, would prevent the defendant from operating a motor vehicle if the defendant has a blood or breath alcohol concentration of two-hundredths (0.02) or greater,

o. to be confined by electronic monitoring administered and supervised by the Department of Corrections or a community sentence provider, and payment of a monitoring fee to the supervising authority, not to exceed Three Hundred Dollars ($300.00) per month. Any

fees collected pursuant to this paragraph shall be deposited with the appropriate supervising authority. Any willful violation of an order of the court for the payment of the monitoring fee shall be a violation of the sentence and may be punished as deemed proper by the sentencing court. As used in this paragraph, "electronic monitoring" means confinement of the defendant within a specified location or locations with supervision by means of an electronic device approved by the Department of Corrections which is designed to detect if the defendant is in the court-ordered location at the required times and which records violations for investigation by a qualified supervisory agency or person,

p. to perform one or more courses of treatment, education or rehabilitation for any conditions, behaviors, deficiencies or disorders which may contribute to criminal conduct, including but not limited to alcohol and substance abuse, mental health, emotional health, physical health, propensity for violence, antisocial behavior, personality or attitudes, deviant sexual behavior, child development, parenting assistance, job skills, vocational-technical skills, domestic relations, literacy, education, or any other identifiable deficiency which may be treated appropriately in the community and for which a certified provider or a program recognized by the court as having significant positive impact exists in the community. Any treatment, education or rehabilitation provider required to be certified pursuant to law or rule shall be certified by the appropriate state agency or a national organization,

q. to submit to periodic testing for alcohol, intoxicating substance, or controlled dangerous substances by a qualified laboratory,

r. to pay a fee, costs for treatment, education, supervision, participation in a program, or any combination thereof as determined by the court, based upon the defendant's ability to pay the fees or costs,

s. to be supervised by a Department of Corrections employee, a private supervision provider, or other person designated by the court,

t. to obtain positive behavior modeling by a trained mentor,

u. to serve a term of confinement in a restrictive housing facility available in the community,

v. to serve a term of confinement in the county jail at night or during weekends pursuant to Section 991a-2 of this title or for work release,
w. to obtain employment or participate in employment-related activities,
x. to participate in mandatory day reporting to facilities or persons for services, payments, duties or person-to-person contacts as specified by the court,
y. to pay day fines not to exceed fifty percent (50%) of the net wages earned. For purposes of this paragraph, "day fine" means the offender is ordered to pay an amount calculated as a percentage of net daily wages earned. The day fine shall be paid to the local community sentencing system as reparation to the community. Day fines shall be used to support the local system,
z. to submit to blood or saliva testing as required by subsection I of this section,
aa. to repair or restore property damaged by the defendant's conduct, if the court determines the defendant possesses sufficient skill to repair or restore the property and the victim consents to the repairing or restoring of the property,
bb. to restore damaged property in kind or payment of out-of-pocket expenses to the victim, if the court is able to determine the actual out-of-pocket expenses suffered by the victim,
cc. to attend a victim-offender reconciliation program if the victim agrees to participate and the offender is deemed appropriate for participation,
dd. in the case of a person convicted of prostitution pursuant to Section 1029 of Title 21 of the Oklahoma Statutes, require such person to receive counseling for the behavior which may have caused such person to engage in prostitution activities. Such person may be required to receive counseling in areas including but not limited to alcohol and substance abuse, sexual behavior problems, or domestic abuse or child abuse problems,
ee. in the case of a sex offender sentenced after November 1, 1989, and required by law to register pursuant to the Sex Offender Registration Act, the court shall require the person to comply with sex offender specific rules and conditions of supervision established by the Department of Corrections and require the person to participate in a treatment program designed for the treatment of sex offenders during the period of time

while the offender is subject to supervision by the Department of Corrections. The treatment program shall include polygraph examinations specifically designed for use with sex offenders for purposes of supervision and treatment compliance, and shall be administered not less than each six (6) months during the period of supervision. The examination shall be administered by a certified licensed polygraph examiner. The treatment program must be approved by the Department of Corrections or the Department of Mental Health and Substance Abuse Services. Such treatment shall be at the expense of the defendant based on the defendant's ability to pay,

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

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

hh. in the case of a person being sentenced for a conviction for a violation of Section 644 of Title 21 of the Oklahoma Statutes, require the person to receive an assessment for batterers, which shall be conducted through a certified treatment program for batterers, and

ii. any other provision specifically ordered by the court.

However, any such order for restitution, community service, payment to a local certified crime stoppers program, payment to the

Oklahoma Reward System, or confinement in the county jail, or a combination thereof, shall be made in conjunction with probation and shall be made a condition of the suspended sentence.

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

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

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

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

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

6. In addition to the other sentencing powers of the court, in the case of a person convicted of operating or being in control of a motor vehicle while the person was under the influence of alcohol, other intoxicating substance, or a combination of alcohol or another

intoxicating substance, or convicted of operating a motor vehicle while the ability of the person to operate such vehicle was impaired due to the consumption of alcohol, require such person:

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

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

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

d. to install, at the expense of the person, an ignition interlock device approved by the Board of Tests for Alcohol and Drug Influence, upon every motor vehicle operated by such person and to require that a notation of this restriction be affixed to the person's driver license at the time of reinstatement of the license. The restriction shall remain on the driver license for such period as the court shall determine. The restriction may be modified or removed by order of the court and notice of the order shall be given to the Department of Public Safety. Upon the expiration of the period for the restriction, the Department of Public Safety shall remove the restriction without further court order. Failure to comply with the order to install an ignition interlock device or operating any vehicle without such device during the period of restriction shall be a violation of the sentence and may be punished as deemed proper by the sentencing court, or

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

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

8. In addition to the other sentencing powers of the court, in the case of a person convicted of any crime related to domestic abuse, as defined in Section 60.1 of this title, the court may require the defendant to undergo the treatment or participate in an intervention program for batterers certified by the Office of the Attorney General, necessary to bring about the cessation of domestic abuse. In the instance where the defendant alleges that he or she is a victim of domestic abuse and the current conviction is a response to that abuse, the court may require the defendant to undergo an assessment by a domestic violence program certified by the Office of the Attorney General, and, if based upon the results of the assessment, the defendant is determined to be a victim of domestic violence, the defendant shall undergo treatment and participate in a certified program for domestic violence victims. The defendant may be required to pay all or part of the cost of the treatment or counseling services;

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

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

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

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

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

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

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

B. Notwithstanding any other provision of law, any person who is found guilty of a violation of any provision of Section 761 or 11-902 of Title 47 of the Oklahoma Statutes or any person pleading guilty or nolo contendere for a violation of any provision of such sections shall be ordered to participate in, prior to sentencing, an alcohol and drug assessment and evaluation by an assessment agency or assessment personnel certified by the Department of Mental Health and Substance Abuse Services for the purpose of evaluating the receptivity to treatment and prognosis of the person. The court shall order the person to reimburse the agency or assessor for the

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

C. When sentencing a person convicted of a crime, the court shall first consider a program of restitution for the victim, as well as imposition of a fine or incarceration of the offender. The provisions of paragraph 1 of subsection A of this section shall not apply to a defendant being sentenced for:

1. A third or subsequent conviction of a violent crime enumerated in Section 571 of Title 57 of the Oklahoma Statutes;

2. A fourth or subsequent conviction for any other felony crime; or

3. Beginning January 1, 1993, a defendant being sentenced for a second or subsequent felony conviction for violation of Section 11-902 of Title 47 of the Oklahoma Statutes, except as otherwise provided in this subsection.

In the case of a person being sentenced for a second or subsequent felony conviction for violation of Section 11-902 of Title 47 of the Oklahoma Statutes, the court may sentence the person pursuant to the provisions of paragraph 1 of subsection A of this section if the court orders the person to submit to electronically monitored home detention administered and supervised by the Department of Corrections pursuant to subparagraph e of paragraph 7

of subsection A of this section. Provided, the court may waive these prohibitions upon written application of the district attorney. Both the application and the waiver shall be made part of the record of the case.

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

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

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

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

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

3. The Department shall establish criteria and specifications for contracts with counties for such Programs. A county may apply to

the Department for a contract for a county-funded Program for a specific period of time. The Department shall be responsible for ensuring that any contracting county complies in full with specifications and requirements of the contract. The contract shall set appropriate compensation to the county for services to the Department.

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

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

H. As used in this section:

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

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

3. "Victims impact panel program" means a meeting with at least one live presenter who will share personal stories with participants about how alcohol, drug abuse and the illegal conduct of others has personally impacted the life of the presenter. A victims impact panel program shall be attended by persons who have committed the offense of driving, operating or being in actual physical control of a motor vehicle while under the influence of alcohol or other intoxicating substance. Persons attending a victims impact panel program shall be required to pay a fee of not less than Fifteen Dollars ($15.00) nor more than Sixty Dollars ($60.00) to the provider of the program. A certificate of completion shall be issued to the person upon satisfying the attendance and fee requirements of the victims impact panel program. A victims impact panel program shall not be provided by any certified assessment agency or certified assessor. The provider of the victims impact panel program shall carry general liability insurance and maintain an accurate accounting of all business transactions and funds received in relation to the victims impact panel program.

I. A person convicted of a felony offense or receiving any form of probation for an offense in which registration is required

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

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

J. Samples of blood or saliva for DNA testing required by subsection I of this section shall be taken by employees or contractors of the Department of Corrections, peace officers, or the county sheriff or employees or contractors of the sheriff's office. The individuals shall be properly trained to collect blood or saliva samples. Persons collecting blood or saliva for DNA testing pursuant to this section shall be immune from civil liabilities arising from this activity. All collectors of DNA samples shall ensure the collection of samples are mailed to the Oklahoma State Bureau of Investigation within ten (10) days of the time the subject appears for testing or within ten (10) days of the date the subject comes into physical custody to serve a term of incarceration. All collectors of DNA samples shall use sample kits provided by the OSBI and procedures promulgated by the OSBI. Persons subject to DNA testing who are not received at the Lexington Assessment and Reception Center shall be required to pay a fee of Fifteen Dollars ($15.00) to the agency collecting the sample for submission to the OSBI Combined DNA Index System (CODIS) Database. Any fees collected pursuant to this subsection shall be deposited in the revolving account or the service fee account of the collection agency or department.

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

Added by Laws 1968, c. 204, § 1, emerg. eff. April 22, 1968. Amended by Laws 1970, c. 312, § 1; Laws 1971, c. 90, § 1, emerg. eff. April 16, 1971; Laws 1976, c. 160, § 1, eff. Oct. 1, 1976; Laws 1978, c. 223, § 1; Laws 1979, c. 66, § 1, emerg. eff. April 16, 1979; Laws 1981, c. 124, § 1; Laws 1982, c. 8, § 1, emerg. eff. March 15, 1982; Laws 1983, c. 23, § 1, eff. Nov. 1, 1983; Laws 1985, c. 59, § 1, eff. Nov. 1, 1985; Laws 1986, c. 240, § 4, eff. Nov. 1, 1986; Laws 1987, c. 224, § 11, eff. Nov. 1, 1987; Laws 1988, c. 150, § 2, eff. Nov. 1, 1988; Laws 1989, c. 197, § 11, eff. Nov. 1, 1989; Laws 1990, c. 152, § 1, eff. Sept. 1, 1990; Laws 1991, c. 200, § 3, eff. Sept. 1, 1991; Laws 1991, c. 335, § 8, emerg. eff. June 15, 1991; Laws 1992, c. 136, § 4, eff. July 1, 1992; Laws 1992, c. 382, § 3, emerg. eff. June 9, 1992; Laws 1993, c. 10, § 3, emerg. eff. March 21, 1993; Laws 1993, c. 166, § 1, eff. Sept. 1, 1993; Laws 1993, c. 339, § 1, eff. Sept. 1, 1993; Laws 1994, c. 2, § 9, emerg. eff. March 2, 1994; Laws 1994, c. 308, § 1, emerg. eff. June 7, 1994; Laws 1996, c. 153, § 4, emerg. eff. May 7, 1996; Laws 1997, c. 150, § 1, eff. Nov. 1, 1997; Laws 1997, c. 420, § 1, emerg. eff. June 13, 1997; Laws 1999, 1st Ex. Sess., c. 4, § 31, eff. July 1, 1999; Laws 2000, c. 112, § 1, emerg. eff. April 20, 2000; Laws 2000, c. 349, § 1, eff. Nov. 1, 2000; Laws 2001, c. 437, § 17, eff. July 1, 2001; Laws 2002, c. 22, § 10, emerg.

eff. March 8, 2002; Laws 2002, c. 235, § 1, emerg. eff. May 9, 2002; Laws 2002, c. 464, § 1, emerg. eff. June 5, 2002; Laws 2003, c. 178, § 1, eff. July 1, 2003; Laws 2003, c. 474, § 3, eff. Nov. 1, 2003; Laws 2004, c. 5, § 11, emerg. eff. March 1, 2004; Laws 2004, c. 143, § 1, eff. Nov. 1, 2004; Laws 2004, c. 418, § 2, eff. July 1, 2004; Laws 2005, c. 188, § 2, emerg. eff. May 17, 2005; Laws 2005, c. 441, § 2, eff. Jan. 1, 2006; Laws 2006, c. 16, § 3, emerg. eff. March 29, 2006; Laws 2006, c. 294, § 1, eff. July 1, 2006; Laws 2007, c. 1, § 16, emerg. eff. Feb. 22, 2007; Laws 2007, c. 30, § 1, eff. Nov. 1, 2007; Laws 2007, c. 182, § 1, eff. Nov. 1, 2007; Laws 2008, c. 3, § 19, emerg. eff. Feb. 28, 2008; Laws 2009, c. 218, § 2, emerg. eff. May 19, 2009; Laws 2010, c. 2, § 10, emerg. eff. March 3, 2010; Laws 2010, c. 37, § 2, eff. Nov. 1, 2010; Laws 2010, c. 237, § 1, eff. Nov. 1, 2010; Laws 2013, c. 80, § 1; Laws 2013, c. 175, § 1, eff. Nov. 1, 2013; Laws 2014, c. 157, § 1, eff. Nov. 1, 2014; Laws 2017, c. 194, § 2, eff. Nov. 1, 2017; Laws 2018, c. 128, § 10, eff. Nov. 1, 2018; Laws 2019, c. 453, § 1, eff. July 1, 2019.
NOTE: Laws 1991, c. 17, § 1 repealed by Laws 1991, c. 335, § 37, emerg. eff. June 15, 1991. Laws 1992, c. 379, § 2 repealed by Laws 1993, c. 10, § 16, emerg. eff. March 21, 1993. Laws 1993, c. 325, § 19 repealed by Laws 1994, c. 2, § 34, emerg. eff. March 2, 1994. Laws 1994, c. 40, § 1 and Laws 1994, c. 188, § 2 repealed by Laws 1997, c. 133, § 605, emerg. eff. April 22, 1997. Laws 1997, c. 9, § 2 repealed by Laws 1997, c. 260, § 12, eff. Nov. 1, 1997. Laws 1997, c. 133, § 65 and Laws 1997, c. 260, § 9 repealed by Laws 1999, 1st Ex. Sess., c. 5, § 452, eff. July 1, 1999. Laws 2000, c. 39, § 3 repealed by Laws 2000, c. 334, § 10, emerg. eff. June 5, 2000 and by Laws 2000, c. 349, § 7, eff. Nov. 1, 2000. Laws 2000, c. 334, § 2 repealed by Laws 2001, c. 5, § 7, emerg. eff. March 21, 2001. Laws 2001, c. 170, § 1 and Laws 2001, c. 225, § 2 repealed by Laws 2002, c. 22, § 34, emerg. eff. March 8, 2002. Laws 2003, c. 306, § 1 repealed by Laws 2004, c. 5, § 12, emerg. eff. March 1, 2004. Laws 2003, c. 363, § 2 repealed by Laws 2004, c. 5, § 13, emerg. eff. March 1, 2004. Laws 2005, c. 183, § 1 repealed by Laws 2006, c. 16, § 4, emerg. eff. March 29, 2006. Laws 2006, c. 284, § 6 repealed by Laws 2007, c. 1, § 17, emerg. eff. Feb. 22, 2007. Laws 2007, c. 261, § 21 repealed by Laws 2008, c. 3, § 20, emerg. eff. Feb. 28, 2008. Laws 2009, c. 234, § 132 repealed by Laws 2010, c. 2, § 11, emerg. eff. March 3, 2010.
NOTE: Laws 2017, c. 194, § 2 was purportedly repealed by Laws 2018, c. 304, § 11 but without reference to Laws 2018, c. 128, § 10, which amended it.

§22-991av2. Sentencing powers of court - Alcohol and drug assessment and evaluation - Restitution, fines, or incarceration - Victim impact statements - Probation and monitoring - DNA samples.

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

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

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

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

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

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

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

f. to confinement as provided by law together with a term of post-imprisonment community supervision for not less than three (3) years of the total term allowed by law for imprisonment, with or without restitution; provided, however, the authority of this provision is limited to Section 843.5 of Title 21 of the Oklahoma Statutes when the offense involved sexual abuse or sexual exploitation; Sections 681, 741 and 843.1 of Title 21 of the Oklahoma Statutes when the offense

involved sexual abuse or sexual exploitation; and Sections 865 et seq., 885, 886, 888, 891, 1021, 1021.2, 1021.3, 1040.13a, 1087, 1088, 1111.1, 1115 and 1123 of Title 21 of the Oklahoma Statutes,

g. to repay the reward or part of the reward paid by a local certified crime stoppers program and the Oklahoma Reward System. In determining whether the defendant shall repay the reward or part of the reward, the court shall consider the ability of the defendant to make the payment, the financial hardship on the defendant to make the required payment, and the importance of the information to the prosecution of the defendant as provided by the arresting officer or the district attorney with due regard for the confidentiality of the records of the local certified crime stoppers program and the Oklahoma Reward System. The court shall assess this repayment against the defendant as a cost of prosecution. The term "certified" means crime stoppers organizations that annually meet the certification standards for crime stoppers programs established by the Oklahoma Crime Stoppers Association to the extent those standards do not conflict with state statutes. The term "court" refers to all municipal and district courts within this state. The "Oklahoma Reward System" means the reward program established by Section 150.18 of Title 74 of the Oklahoma Statutes,

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

i. to reimburse the Oklahoma State Bureau of Investigation and any authorized law enforcement agency for all costs incurred by that agency for cleaning up an illegal drug laboratory site for which the defendant pleaded guilty, nolo contendere or was convicted. The court clerk shall collect the amount and may retain five percent (5%) of such monies to be deposited in the Court Clerk Revolving Fund to cover administrative costs and shall remit the remainder to the Oklahoma State Bureau of Investigation to be deposited in the OSBI Revolving

Fund established by Section 150.19a of Title 74 of the Oklahoma Statutes or to the general fund wherein the other law enforcement agency is located,

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

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

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

m. to be placed in a victims impact panel program, as defined in subsection H of this section, or victim/offender reconciliation program and payment of a fee to the program of not less than Fifteen Dollars ($15.00) nor more than Sixty Dollars ($60.00) as set by the governing authority of the program to offset the cost of participation by the defendant. Provided, each victim/offender reconciliation program shall be required to obtain a written consent form voluntarily signed by the victim and defendant that specifies the methods to be used to resolve the issues, the obligations and rights of each person, and the confidentiality of the proceedings. Volunteer mediators and employees of a victim/offender reconciliation program shall be immune from liability and have rights of confidentiality as provided in Section 1805 of Title 12 of the Oklahoma Statutes,

n. to install, at the expense of the defendant, an ignition interlock device approved by the Board of Tests for Alcohol and Drug Influence. The device shall be installed upon every motor vehicle operated by the defendant, and the court shall require that a notation of this restriction be affixed to the defendant's driver license. The restriction shall remain on the driver license not exceeding two (2) years to be determined by the court. The restriction may be modified or removed only by order of the court and notice of any modification order shall be given to the

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

o. to be confined by electronic monitoring administered and supervised by the Department of Corrections or a community sentence provider, and payment of a monitoring fee to the supervising authority, not to exceed Three Hundred Dollars ($300.00) per month. Any fees collected pursuant to this paragraph shall be deposited with the appropriate supervising authority. Any willful violation of an order of the court for the payment of the monitoring fee shall be a violation of the sentence and may be punished as deemed proper by the sentencing court. As used in this paragraph, "electronic monitoring" means confinement of the defendant within a specified location or locations with supervision by means of an electronic device approved by the Department of Corrections which is designed to detect if the defendant is in the court-ordered location at the required times and which records violations for investigation by a qualified supervisory agency or person,

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

community. Any treatment, education or rehabilitation provider required to be certified pursuant to law or rule shall be certified by the appropriate state agency or a national organization,

q. to submit to periodic testing for alcohol, intoxicating substance, or controlled dangerous substances by a qualified laboratory,

r. to pay a fee, costs for treatment, education, supervision, participation in a program, or any combination thereof as determined by the court, based upon the defendant's ability to pay the fees or costs,

s. to be supervised by a Department of Corrections employee, a private supervision provider, or other person designated by the court,

t. to obtain positive behavior modeling by a trained mentor,

u. to serve a term of confinement in a restrictive housing facility available in the community,

v. to serve a term of confinement in the county jail at night or during weekends pursuant to Section 991a-2 of this title or for work release,

w. to obtain employment or participate in employment-related activities,

x. to participate in mandatory day reporting to facilities or persons for services, payments, duties or person-to-person contacts as specified by the court,

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

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

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

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

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

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

ee. in the case of a sex offender sentenced after November 1, 1989, and required by law to register pursuant to the Sex Offender Registration Act, the court shall require the person to comply with sex offender specific rules and conditions of supervision established by the Department of Corrections and require the person to participate in a treatment program designed for the treatment of sex offenders during the period of time while the offender is subject to supervision by the Department of Corrections. The treatment program shall include polygraph examinations specifically designed for use with sex offenders for purposes of supervision and treatment compliance, and shall be administered not less than each six (6) months during the period of supervision. The examination shall be administered by a certified licensed polygraph examiner. The treatment program must be approved by the Department of Corrections or the Department of Mental Health and Substance Abuse Services. Such treatment shall be at the expense of the defendant based on the defendant's ability to pay,

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

gg. in the case of a person convicted of any false or bogus check violation, as defined in Section 1541.4 of Title 21 of the Oklahoma Statutes, impose a fee of Twenty-five Dollars ($25.00) to the victim for each check, and impose a bogus check fee to be paid to the district

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

hh. any other provision specifically ordered by the court.

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

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

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

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

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

5. Order the defendant to reimburse the Oklahoma State Bureau of Investigation for all costs incurred by that agency for cleaning up

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

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

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

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

b. to attend a victims impact panel program, as defined in subsection H of this section, and to pay a fee of not more than Sixty Dollars ($60.00) as set by the governing authority of the program and approved by the court, to the program to offset the cost of participation by the defendant, if in the opinion of the court the defendant has the ability to pay such fee,

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

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

restriction may be modified or removed by order of the court and notice of the order shall be given to the Department of Public Safety. Upon the expiration of the period for the restriction, the Department of Public Safety shall remove the restriction without further court order. Failure to comply with the order to install an ignition interlock device or operating any vehicle without such device during the period of restriction shall be a violation of the sentence and may be punished as deemed proper by the sentencing court, or

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

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

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

10. In addition to the other sentencing powers of the court, the court, in the case of a sex offender sentenced after November 1, 1989, and required by law to register pursuant to the Sex Offenders Registration Act, shall require the person to participate in a treatment program designed specifically for the treatment of sex offenders, if available. The treatment program will include polygraph examinations specifically designed for use with sex offenders for the purpose of supervision and treatment compliance, provided the examination is administered by a certified licensed

polygraph examiner. The treatment program must be approved by the Department of Corrections or the Department of Mental Health and Substance Abuse Services. Such treatment shall be at the expense of the defendant based on the defendant's ability to pay;

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

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

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

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

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

B. Notwithstanding any other provision of law, any person who is found guilty of a violation of any provision of Section 761 or 11-902 of Title 47 of the Oklahoma Statutes or any person pleading guilty or nolo contendere for a violation of any provision of such sections shall be ordered to participate in, prior to sentencing, an alcohol and drug assessment and evaluation by an assessment agency or assessment personnel certified by the Department of Mental Health and Substance Abuse Services for the purpose of evaluating the

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

C. When sentencing a person convicted of a crime, the court shall first consider a program of restitution for the victim, as well as imposition of a fine or incarceration of the offender. The provisions of paragraph 1 of subsection A of this section shall not apply to defendants being sentenced upon their third or subsequent to their third conviction of a felony or, beginning January 1, 1993, to defendants being sentenced for their second or subsequent felony conviction for violation of Section 11-902 of Title 47 of the Oklahoma Statutes, except as otherwise provided in this subsection. In the case of a person being sentenced for their second or subsequent felony conviction for violation of Section 11-902 of Title 47 of the Oklahoma Statutes, the court may sentence the person pursuant to the provisions of paragraph 1 of subsection A of this section if the court orders the person to submit to electronically monitored home detention administered and supervised by the Department of Corrections pursuant to subparagraph e of paragraph 7 of subsection A of this section. Provided, the court may waive these prohibitions upon written application of the district attorney. Both

the application and the waiver shall be made part of the record of the case.

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

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

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

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

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

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

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

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

H. As used in this section:

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

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

3. "Victims impact panel program" means a program conducted by a corporation registered with the Secretary of State in Oklahoma for the purpose of operating a victims impact panel program. The program shall include live presentations from presenters who will share personal stories with participants about how alcohol, drug abuse, the operation of a motor vehicle while using an electronic communication device or the illegal conduct of others has personally impacted the lives of the presenters. A victims impact panel program shall be attended by persons who have committed the offense of driving, operating or being in actual physical control of a motor vehicle while under the influence of alcohol or other intoxicating substance, operating a motor vehicle while the ability of the person to operate such vehicle was impaired due to the consumption of alcohol or any other substance or operating a motor vehicle while using an electronic device. Persons attending a victims impact panel program shall be required to pay a fee of not more than Sixty Dollars ($60.00) to the provider of the program. A certificate of completion shall be issued to the person upon satisfying the attendance and fee requirements of the victims impact panel program. The certificate of completion shall contain the business identification number of the program provider. A victims impact panel program shall not be provided by any certified assessment agency or certified assessor unless the assessment agency or certified assessor has been granted an exemption by the Commissioner of the Department of Mental Health and Substance Abuse Services. The provider of the victims impact panel program shall carry general liability insurance and maintain an

accurate accounting of all business transactions and funds received in relation to the victims impact panel program. The provider of the victims impact panel program shall annually provide to the Administrative Office of the Courts the following:

a. proof of registration with the Oklahoma Secretary of State,
b. proof of general liability insurance,
c. end-of-year financial statements prepared by a certified public accountant, and
d. a copy of federal income tax returns filed with the Internal Revenue Service.

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

judgment does not require submission to deoxyribonucleic acid testing.

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

J. Samples of blood or saliva for DNA testing required by subsection I of this section shall be taken by employees or contractors of the Department of Corrections, peace officers, or the county sheriff or employees or contractors of the sheriff's office. The individuals shall be properly trained to collect blood or saliva samples. Persons collecting blood or saliva for DNA testing pursuant to this section shall be immune from civil liabilities arising from this activity. All collectors of DNA samples shall ensure the collection of samples are mailed to the Oklahoma State Bureau of Investigation within ten (10) days of the time the subject appears for testing or within ten (10) days of the date the subject comes into physical custody to serve a term of incarceration. All collectors of DNA samples shall use sample kits provided by the OSBI and procedures promulgated by the OSBI. Persons subject to DNA testing who are not received at the Lexington Assessment and Reception Center shall be required to pay a fee of Fifteen Dollars ($15.00) to the agency collecting the sample for submission to the OSBI Combined DNA Index System (CODIS) Database. Any fees collected pursuant to this subsection shall be deposited in the revolving account or the service fee account of the collection agency or department.

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

Added by Laws 1968, c. 204, § 1, emerg. eff. April 22, 1968. Amended by Laws 1970, c. 312, § 1; Laws 1971, c. 90, § 1, emerg. eff. April 16, 1971; Laws 1976, c. 160, § 1, eff. Oct. 1, 1976; Laws 1978, c. 223, § 1; Laws 1979, c. 66, § 1, emerg. eff. April 16, 1979; Laws 1981, c. 124, § 1; Laws 1982, c. 8, § 1, emerg. eff. March 15, 1982; Laws 1983, c. 23, § 1, eff. Nov. 1, 1983; Laws 1985, c. 59, § 1, eff. Nov. 1, 1985; Laws 1986, c. 240, § 4, eff. Nov. 1, 1986; Laws 1987, c. 224, § 11, eff. Nov. 1, 1987; Laws 1988, c. 150, § 2, eff. Nov. 1, 1988; Laws 1989, c. 197, § 11, eff. Nov. 1, 1989; Laws 1990, c. 152,

§ 1, eff. Sept. 1, 1990; Laws 1991, c. 200, § 3, eff. Sept. 1, 1991; Laws 1991, c. 335, § 8, emerg. eff. June 15, 1991; Laws 1992, c. 136, § 4, eff. July 1, 1992; Laws 1992, c. 382, § 3, emerg. eff. June 9, 1992; Laws 1993, c. 10, § 3, emerg. eff. March 21, 1993; Laws 1993, c. 166, § 1, eff. Sept. 1, 1993; Laws 1993, c. 339, § 1, eff. Sept. 1, 1993; Laws 1994, c. 2, § 9, emerg. eff. March 2, 1994; Laws 1994, c. 308, § 1, emerg. eff. June 7, 1994; Laws 1996, c. 153, § 4, emerg. eff. May 7, 1996; Laws 1997, c. 150, § 1, eff. Nov. 1, 1997; Laws 1997, c. 420, § 1, emerg. eff. June 13, 1997; Laws 1999, 1st Ex. Sess., c. 4, § 31, eff. July 1, 1999; Laws 2000, c. 112, § 1, emerg. eff. April 20, 2000; Laws 2000, c. 349, § 1, eff. Nov. 1, 2000; Laws 2001, c. 437, § 17, eff. July 1, 2001; Laws 2002, c. 22, § 10, emerg. eff. March 8, 2002; Laws 2002, c. 235, § 1, emerg. eff. May 9, 2002; Laws 2002, c. 464, § 1, emerg. eff. June 5, 2002; Laws 2003, c. 178, § 1, eff. July 1, 2003; Laws 2003, c. 474, § 3, eff. Nov. 1, 2003; Laws 2004, c. 5, § 11, emerg. eff. March 1, 2004; Laws 2004, c. 143, § 1, eff. Nov. 1, 2004; Laws 2004, c. 418, § 2, eff. July 1, 2004; Laws 2005, c. 188, § 2, emerg. eff. May 17, 2005; Laws 2005, c. 441, § 2, eff. Jan. 1, 2006; Laws 2006, c. 16, § 3, emerg. eff. March 29, 2006; Laws 2006, c. 294, § 1, eff. July 1, 2006; Laws 2007, c. 1, § 16, emerg. eff. Feb. 22, 2007; Laws 2007, c. 30, § 1, eff. Nov. 1, 2007; Laws 2007, c. 182, § 1, eff. Nov. 1, 2007; Laws 2008, c. 3, § 19, emerg. eff. Feb. 28, 2008; Laws 2009, c. 218, § 2, emerg. eff. May 19, 2009; Laws 2010, c. 2, § 10, emerg. eff. March 3, 2010; Laws 2010, c. 37, § 2, eff. Nov. 1, 2010; Laws 2010, c. 237, § 1, eff. Nov. 1, 2010; Laws 2013, c. 80, § 1; Laws 2013, c. 175, § 1, eff. Nov. 1, 2013; Laws 2014, c. 157, § 1, eff. Nov. 1, 2014; Laws 2017, c. 313, § 1, eff. Nov. 1, 2017; Laws 2018, c. 304, § 10, emerg. eff. May 10, 2018.

NOTE: Laws 1991, c. 17, § 1 repealed by Laws 1991, c. 335, § 37, emerg. eff. June 15, 1991. Laws 1992, c. 379, § 2 repealed by Laws 1993, c. 10, § 16, emerg. eff. March 21, 1993. Laws 1993, c. 325, § 19 repealed by Laws 1994, c. 2, § 34, emerg. eff. March 2, 1994. Laws 1994, c. 40, § 1 and Laws 1994, c. 188, § 2 repealed by Laws 1997, c. 133, § 605, emerg. eff. April 22, 1997. Laws 1997, c. 9, § 2 repealed by Laws 1997, c. 260, § 12, eff. Nov. 1, 1997. Laws 1997, c. 133, § 65 and Laws 1997, c. 260, § 9 repealed by Laws 1999, 1st Ex. Sess., c. 5, § 452, eff. July 1, 1999. Laws 2000, c. 39, § 3 repealed by Laws 2000, c. 334, § 10, emerg. eff. June 5, 2000 and by Laws 2000, c. 349, § 7, eff. Nov. 1, 2000. Laws 2000, c. 334, § 2 repealed by Laws 2001, c. 5, § 7, emerg. eff. March 21, 2001. Laws 2001, c. 170, § 1 and Laws 2001, c. 225, § 2 repealed by Laws 2002, c. 22, § 34, emerg. eff. March 8, 2002. Laws 2003, c. 306, § 1 repealed by Laws 2004, c. 5, § 12, emerg. eff. March 1, 2004. Laws 2003, c. 363, § 2 repealed by Laws 2004, c. 5, § 13, emerg. eff. March 1, 2004. Laws 2005, c. 183, § 1 repealed by Laws 2006, c. 16, § 4, emerg. eff. March 29, 2006. Laws 2006, c. 284, § 6 repealed by

Laws 2007, c. 1, § 17, emerg. eff. Feb. 22, 2007. Laws 2007, c. 261, § 21 repealed by Laws 2008, c. 3, § 20, emerg. eff. Feb. 28, 2008. Laws 2009, c. 234, § 132 repealed by Laws 2010, c. 2, § 11, emerg. eff. March 3, 2010.
NOTE: Laws 2017, c. 194, § 2 was purportedly repealed by Laws 2018, c. 304, § 11 but without reference to Laws 2018, c. 128, § 10, which amended it.

§22-991cv1. Deferred sentence.

A. Upon a verdict or plea of guilty or upon a plea of nolo contendere, but before a judgment of guilt, the court may, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings upon the specific conditions prescribed by the court not to exceed a seven-year period, except as authorized under subsection B of this section. The court shall first consider restitution among the various conditions it may prescribe. The court may also consider ordering the defendant to:

1. Pay court costs;

2. Pay an assessment in lieu of any fine authorized by law for the offense;

3. Pay any other assessment or cost authorized by law;

4. Engage in a term of community service without compensation, according to a schedule consistent with the employment and family responsibilities of the defendant;

5. County jail confinement for a period not to exceed ninety (90) days or the maximum amount of jail time provided for the offense, if it is less than ninety (90) days;

6. Pay an amount as reimbursement for reasonable attorney fees, to be paid into the court fund, if a court-appointed attorney has been provided to defendant;

7. Be supervised in the community for a period not to exceed eighteen (18) months, unless a petition alleging violation of any condition of deferred judgment is filed during the period of supervision. As a condition of any supervision, the defendant shall be required to pay a supervision fee of Forty Dollars ($40.00) per month. The supervision fee shall be waived in whole or part by the supervisory agency when the accused is indigent. Any fees collected by the district attorney pursuant to this paragraph shall be deposited in the General Revenue Fund of the State Treasury. No person shall be denied supervision based solely on the inability of the person to pay a fee;

8. Pay into the court fund a monthly amount not exceeding Forty Dollars ($40.00) per month during any period during which the proceedings are deferred when the defendant is not to be supervised in the community. The total amount to be paid into the court fund shall be established by the court and shall not exceed the amount of the maximum fine authorized by law for the offense;

9. Make other reparations to the community or victim as required and deemed appropriate by the court;

10. Order any conditions which can be imposed for a suspended sentence pursuant to paragraph 1 of subsection A of Section 991a of this title; or

11. Any combination of the above provisions.

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

B. When the court has ordered restitution as a condition of supervision as provided for in subsection A of this section and that condition has not been satisfied, the court may, at any time prior to the termination or expiration of the supervision period, order an extension of supervision for a period not to exceed three (3) years.

C. In addition to any conditions of supervision provided for in subsection A of this section, the court shall, in the case of a person before the court for the offense of operating or being in control of a motor vehicle while the person was under the influence of alcohol, other intoxicating substance, or a combination of alcohol and another intoxicating substance, or who is before the court for the offense of operating a motor vehicle while the ability of the person to operate such vehicle was impaired due to the consumption of alcohol, require the person to participate in an alcohol and drug substance abuse evaluation program offered by a facility or qualified practitioner certified by the Department of Mental Health and Substance Abuse Services for the purpose of evaluating the receptivity to treatment and prognosis of the person. The court shall order the person to reimburse the facility or qualified practitioner for the evaluation. The Department of Mental Health and Substance Abuse Services shall establish a fee schedule, based upon the ability of a person to pay, provided the fee for an evaluation shall not exceed Seventy-five Dollars ($75.00). The evaluation shall be conducted at a certified facility, the office of a qualified practitioner or at another location as ordered by the court. The facility or qualified practitioner shall, within seventy-two (72)

hours from the time the person is assessed, submit a written report to the court for the purpose of assisting the court in its determination of conditions for deferred sentence. No person, agency or facility operating an alcohol and drug substance abuse evaluation program certified by the Department of Mental Health and Substance Abuse Services shall solicit or refer any person evaluated pursuant to this subsection for any treatment program or alcohol and drug substance abuse service in which the person, agency or facility has a vested interest; however, this provision shall not be construed to prohibit the court from ordering participation in or any person from voluntarily utilizing a treatment program or alcohol and drug substance abuse service offered by such person, agency or facility. Any evaluation report submitted to the court pursuant to this subsection shall be handled in a manner which will keep the report confidential from review by the general public. Nothing contained in this subsection shall be construed to prohibit the court from ordering judgment and sentence in the event the defendant fails or refuses to comply with an order of the court to obtain the evaluation required by this subsection. As used in this subsection, "qualified practitioner" means a person with at least a bachelor's degree in substance abuse treatment, mental health or a related health care field and at least two (2) years of experience in providing alcohol abuse treatment, other drug abuse treatment, or both alcohol and other drug abuse treatment who is certified each year by the Department of Mental Health and Substance Abuse Services to provide these assessments. However, any person who does not meet the requirements for a qualified practitioner as defined herein, but who has been previously certified by the Department of Mental Health and Substance Abuse Services to provide alcohol or drug treatment or assessments, shall be considered a qualified practitioner provided all education, experience and certification requirements stated herein are met by September 1, 1995. The court may also require the person to participate in one or both of the following:

1. An alcohol and drug substance abuse course, pursuant to Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes; and

2. A victims impact panel program, as defined in subsection H of Section 991a of this title, if such a program is offered in the county where the judgment is rendered. The defendant shall be required to pay a fee of not less than Fifteen Dollars ($15.00) nor more than Sixty Dollars ($60.00) as set by the governing authority of the program and approved by the court to the victims impact panel program to offset the cost of participation by the defendant, if in the opinion of the court the defendant has the ability to pay such fee.

D. Upon completion of the conditions of the deferred judgment, and upon a finding by the court that the conditions have been met and all fines, fees, and monetary assessments have been paid as ordered,

the defendant shall be discharged without a court judgment of guilt, and the court shall order the verdict or plea of guilty or plea of nolo contendere to be expunged from the record and the charge shall be dismissed with prejudice to any further action. The procedure to expunge the record of the defendant shall be as follows:

1. All references to the name of the defendant shall be deleted from the docket sheet;

2. The public index of the filing of the charge shall be expunged by deletion, mark-out or obliteration;

3. Upon expungement, the court clerk shall keep a separate confidential index of case numbers and names of defendants which have been obliterated pursuant to the provisions of this section;

4. No information concerning the confidential file shall be revealed or released, except upon written order of a judge of the district court or upon written request by the named defendant to the court clerk for the purpose of updating the criminal history record of the defendant with the Oklahoma State Bureau of Investigation; and

5. Defendants qualifying under Section 18 of this title may petition the court to have the filing of the indictment and the dismissal expunged from the public index and docket sheet. This section shall not be mutually exclusive of Section 18 of this title.

Records expunged pursuant to this subsection shall be sealed to the public but not to law enforcement agencies for law enforcement purposes. Records expunged pursuant to this subsection shall be admissible in any subsequent criminal prosecution to prove the existence of a prior conviction or prior deferred judgment without the necessity of a court order requesting the unsealing of such records.

E. The provisions of subsection D of this section shall be retroactive.

F. Whenever a judgment has been deferred by the court according to the provisions of this section, deferred judgment may not be accelerated for any technical violation unless a petition setting forth the grounds for such acceleration is filed by the district attorney with the clerk of the sentencing court and competent evidence justifying the acceleration of the judgment is presented to the court at a hearing to be held for that purpose. The hearing shall be held not more than twenty (20) days after the entry of the plea of not guilty to the petition, unless waived by both the state and the defendant. Any acceleration of a deferred sentence based on a technical violation shall not exceed ninety (90) days for a first acceleration or five (5) years for a second or subsequent acceleration.

G. Upon any violation of the deferred judgment, other than a technical violation, the court may enter a judgment of guilt and proceed as provided in Section 991a of this title or may modify any condition imposed. Provided, however, if the deferred judgment is

for a felony offense, and the defendant commits another felony offense, the defendant shall not be allowed bail pending appeal.

H. The deferred judgment procedure described in this section shall apply only to defendants who have not been previously convicted of a felony offense and have not received more than one deferred judgment for a felony offense within the ten (10) years previous to the commission of the pending offense.

Provided, the court may waive this prohibition upon written application of the district attorney. Both the application and the waiver shall be made a part of the record of the case.

I. The deferred judgment procedure described in this section shall not apply to defendants found guilty or who plead guilty or nolo contendere to a sex offense required by law to register pursuant to the Sex Offenders Registration Act.

J. All defendants who are supervised pursuant to this section shall be subject to the sanction process as established in subsection B of Section 991b of this title.

Added by Laws 1970, c. 312, § 2. Amended by Laws 1976, c. 160, § 3, eff. Oct. 1, 1976; Laws 1979, c. 66, § 2, emerg. eff. April 16, 1979; Laws 1981, c. 15, § 1, eff. Oct. 1, 1981; Laws 1982, c. 8, § 2, emerg. eff. March 15, 1982; Laws 1984, c. 10, § 1, eff. Nov. 1, 1984; Laws 1985, c. 112, § 8, eff. Nov. 1, 1985; Laws 1988, c. 109, § 27, eff. Nov. 1, 1988; Laws 1990, c. 152, § 2, eff. Sept. 1, 1990; Laws 1992, c. 151, § 2, eff. Sept. 1, 1992; Laws 1992, c. 357, § 5, eff. July 1, 1992; Laws 1993, c. 166, § 2, eff. Sept. 1, 1993; Laws 1993, c. 360, § 3, eff. Sept. 1, 1993; Laws 1994, c. 2, § 10, emerg. eff. March 2, 1994; Laws 1994, c. 308, § 2, emerg. eff. June 7, 1994; Laws 1995, c. 193, § 3, eff. July 1, 1995; Laws 1995, c. 286, § 6, eff. July 1, 1995; Laws 1996, c. 304, § 2, emerg. eff. June 10, 1996; Laws 1997, c. 133, § 70, eff. July 1, 1999; Laws 1999, 1st Ex. Sess., c. 5, § 21, eff. July 1, 1999; Laws 1999, 1st Ex. Sess., c. 4, § 27, eff. July 1, 1999; Laws 2000, c. 6, § 5, emerg. eff. March 20, 2000; Laws 2000, c. 349, § 6, eff. Nov. 1, 2000; Laws 2001, c. 437, § 18, eff. July 1, 2001; Laws 2002, c. 460, § 20, eff. Nov. 1, 2002; Laws 2004, c. 275, § 12, eff. July 1, 2004; Laws 2005, c. 1, § 18, emerg. eff. March 15, 2005; Laws 2005, c. 374, § 2, eff. Nov. 1, 2005; Laws 2010, c. 113, § 2; Laws 2013, c. 80, § 2; Laws 2013, c. 175, § 2, eff. Nov. 1, 2013; Laws 2014, c. 219, § 1, eff. Nov. 1, 2014; Laws 2015, c. 209, § 1, eff. Nov. 1, 2015; Laws 2018, c. 128, § 12, eff. Nov. 1, 2018; Laws 2019, c. 453, § 2, eff. July 1, 2019.

NOTE: Laws 1993, c. 81, § 4 repealed by Laws 1993, c. 339, § 4, eff. Sept. 1, 1993 and by Laws 1993, c. 360, § 17, eff. Sept. 1, 1993. Laws 1993, c. 339, § 2 repealed by Laws 1994, c. 2, § 34, emerg. eff. March 2, 1994. Laws 1995, c. 75, § 1 repealed by Laws 1995, c. 286, § 17, eff. July 1, 1995. Laws 1999, c. 359, § 1 repealed by Laws 2000, c. 6, § 33, emerg. eff. March 20, 2000. Laws 2004, c. 145, § 1 repealed by Laws 2005, c. 1, § 19, emerg. eff. March 15, 2005.

§22-991cv2. Deferred sentence.

A. Upon a verdict or plea of guilty or upon a plea of nolo contendere, but before a judgment of guilt, the court may, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings upon the specific conditions prescribed by the court not to exceed a seven-year period, except as authorized under subsection B of this section. The court shall first consider restitution among the various conditions it may prescribe. The court may also consider ordering the defendant to:

1. Pay court costs;

2. Pay an assessment in lieu of any fine authorized by law for the offense;

3. Pay any other assessment or cost authorized by law;

4. Engage in a term of community service without compensation, according to a schedule consistent with the employment and family responsibilities of the defendant;

5. County jail confinement for a period not to exceed ninety (90) days or the maximum amount of jail time provided for the offense, if it is less than ninety (90) days;

6. Pay an amount as reimbursement for reasonable attorney fees, to be paid into the court fund, if a court-appointed attorney has been provided to defendant;

7. Be supervised in the community for a period not to exceed eighteen (18) months, unless a petition alleging violation of any condition of deferred judgment is filed during the period of supervision. As a condition of any supervision, the defendant shall be required to pay a supervision fee of Forty Dollars ($40.00) per month. The supervision fee shall be waived in whole or part by the supervisory agency when the accused is indigent. No person shall be denied supervision based solely on the inability of the person to pay a fee;

8. Pay into the court fund a monthly amount not exceeding Forty Dollars ($40.00) per month during any period during which the proceedings are deferred when the defendant is not to be supervised in the community. The total amount to be paid into the court fund shall be established by the court and shall not exceed the amount of the maximum fine authorized by law for the offense;

9. Make other reparations to the community or victim as required and deemed appropriate by the court;

10. Order any conditions which can be imposed for a suspended sentence pursuant to paragraph 1 of subsection A of Section 991a of this title; or

11. Any combination of the above provisions.

However, unless under the supervision of the district attorney, the offender shall be required to pay Forty Dollars ($40.00) per month to the district attorney during the first two (2) years of

probation to compensate the district attorney for the costs incurred during the prosecution of the offender and for the additional work of verifying the compliance of the offender with the rules and conditions of his or her probation. The district attorney may waive any part of this requirement in the best interests of justice. The court shall not waive, suspend, defer or dismiss the costs of prosecution in its entirety. However, if the court determines that a reduction in the fine, costs and costs of prosecution is warranted, the court shall equally apply the same percentage reduction to the fine, costs and costs of prosecution owed by the offender.

B. When the court has ordered restitution as a condition of supervision as provided for in subsection A of this section and that condition has not been satisfied, the court may, at any time prior to the termination or expiration of the supervision period, order an extension of supervision for a period not to exceed three (3) years.

C. In addition to any conditions of supervision provided for in subsection A of this section, the court shall, in the case of a person before the court for the offense of operating or being in control of a motor vehicle while the person was under the influence of alcohol, other intoxicating substance, or a combination of alcohol and another intoxicating substance, or who is before the court for the offense of operating a motor vehicle while the ability of the person to operate such vehicle was impaired due to the consumption of alcohol, require the person to participate in an alcohol and drug substance abuse evaluation program offered by a facility or qualified practitioner certified by the Department of Mental Health and Substance Abuse Services for the purpose of evaluating the receptivity to treatment and prognosis of the person. The court shall order the person to reimburse the facility or qualified practitioner for the evaluation. The Department of Mental Health and Substance Abuse Services shall establish a fee schedule, based upon the ability of a person to pay, provided the fee for an evaluation shall not exceed Seventy-five Dollars ($75.00). The evaluation shall be conducted at a certified facility, the office of a qualified practitioner or at another location as ordered by the court. The facility or qualified practitioner shall, within seventy-two (72) hours from the time the person is assessed, submit a written report to the court for the purpose of assisting the court in its determination of conditions for deferred sentence. No person, agency or facility operating an alcohol and drug substance abuse evaluation program certified by the Department of Mental Health and Substance Abuse Services shall solicit or refer any person evaluated pursuant to this subsection for any treatment program or alcohol and drug substance abuse service in which the person, agency or facility has a vested interest; however, this provision shall not be construed to prohibit the court from ordering participation in or any person from voluntarily utilizing a treatment program or alcohol and drug

substance abuse service offered by such person, agency or facility. Any evaluation report submitted to the court pursuant to this subsection shall be handled in a manner which will keep the report confidential from review by the general public. Nothing contained in this subsection shall be construed to prohibit the court from ordering judgment and sentence in the event the defendant fails or refuses to comply with an order of the court to obtain the evaluation required by this subsection. As used in this subsection, "qualified practitioner" means a person with at least a bachelor's degree in substance abuse treatment, mental health or a related health care field and at least two (2) years of experience in providing alcohol abuse treatment, other drug abuse treatment, or both alcohol and other drug abuse treatment who is certified each year by the Department of Mental Health and Substance Abuse Services to provide these assessments. However, any person who does not meet the requirements for a qualified practitioner as defined herein, but who has been previously certified by the Department of Mental Health and Substance Abuse Services to provide alcohol or drug treatment or assessments, shall be considered a qualified practitioner provided all education, experience and certification requirements stated herein are met by September 1, 1995. The court may also require the person to participate in one or both of the following:

1. An alcohol and drug substance abuse course, pursuant to Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes; and

2. A victims impact panel program, as defined in subsection H of Section 991a of this title, if such a program is offered in the county where the judgment is rendered. The defendant shall be required to pay a fee of not less than Fifteen Dollars ($15.00) nor more than Sixty Dollars ($60.00) as set by the governing authority of the program and approved by the court to the victims impact panel program to offset the cost of participation by the defendant, if in the opinion of the court the defendant has the ability to pay such fee.

D. Upon completion of the conditions of the deferred judgment, and upon a finding by the court that the conditions have been met and all fines, fees, and monetary assessments have been paid as ordered, the defendant shall be discharged without a court judgment of guilt, and the court shall order the verdict or plea of guilty or plea of nolo contendere to be expunged from the record and the charge shall be dismissed with prejudice to any further action. The procedure to expunge the record of the defendant shall be as follows:

1. All references to the name of the defendant shall be deleted from the docket sheet;

2. The public index of the filing of the charge shall be expunged by deletion, mark-out or obliteration;

3. Upon expungement, the court clerk shall keep a separate confidential index of case numbers and names of defendants which have been obliterated pursuant to the provisions of this section;

4. No information concerning the confidential file shall be revealed or released, except upon written order of a judge of the district court or upon written request by the named defendant to the court clerk for the purpose of updating the criminal history record of the defendant with the Oklahoma State Bureau of Investigation; and

5. Defendants qualifying under Section 18 of this title may petition the court to have the filing of the indictment and the dismissal expunged from the public index and docket sheet. This section shall not be mutually exclusive of Section 18 of this title.

Records expunged pursuant to this subsection shall be sealed to the public but not to law enforcement agencies for law enforcement purposes. Records expunged pursuant to this subsection shall be admissible in any subsequent criminal prosecution to prove the existence of a prior conviction or prior deferred judgment without the necessity of a court order requesting the unsealing of such records.

E. The provisions of subsection D of this section shall be retroactive.

F. Whenever a judgment has been deferred by the court according to the provisions of this section, deferred judgment may not be accelerated for any technical violation unless a petition setting forth the grounds for such acceleration is filed by the district attorney with the clerk of the sentencing court and competent evidence justifying the acceleration of the judgment is presented to the court at a hearing to be held for that purpose. The hearing shall be held not more than twenty (20) days after the entry of the plea of not guilty to the petition, unless waived by both the state and the defendant. Any acceleration of a deferred sentence based on a technical violation shall not exceed ninety (90) days for a first acceleration or five (5) years for a second or subsequent acceleration.

G. Upon any violation of the deferred judgment, other than a technical violation, the court may enter a judgment of guilt and proceed as provided in Section 991a of this title or may modify any condition imposed. Provided, however, if the deferred judgment is for a felony offense, and the defendant commits another felony offense, the defendant shall not be allowed bail pending appeal.

H. The deferred judgment procedure described in this section shall apply only to defendants who have not been previously convicted of a felony offense and have not received more than one deferred judgment for a felony offense within the ten (10) years previous to the commission of the pending offense.

Provided, the court may waive this prohibition upon written application of the district attorney. Both the application and the waiver shall be made a part of the record of the case.

I. The deferred judgment procedure described in this section shall not apply to defendants found guilty or who plead guilty or nolo contendere to a sex offense required by law to register pursuant to the Sex Offenders Registration Act.

J. All defendants who are supervised pursuant to this section shall be subject to the sanction process as established in subsection D of Section 991b of this title.

K. Notwithstanding the provisions of subsections F and G of this section, a person who is being considered for an acceleration of a deferred judgment for an offense where the penalty has subsequently been lowered to a misdemeanor shall only be subject to a judgment and sentence that would have been applicable had he or she committed the offense after July 1, 2017.

Added by Laws 1970, c. 312, § 2. Amended by Laws 1976, c. 160, § 3, eff. Oct. 1, 1976; Laws 1979, c. 66, § 2, emerg. eff. April 16, 1979; Laws 1981, c. 15, § 1, eff. Oct. 1, 1981; Laws 1982, c. 8, § 2, emerg. eff. March 15, 1982; Laws 1984, c. 10, § 1, eff. Nov. 1, 1984; Laws 1985, c. 112, § 8, eff. Nov. 1, 1985; Laws 1988, c. 109, § 27, eff. Nov. 1, 1988; Laws 1990, c. 152, § 2, eff. Sept. 1, 1990; Laws 1992, c. 151, § 2, eff. Sept. 1, 1992; Laws 1992, c. 357, § 5, eff. July 1, 1992; Laws 1993, c. 166, § 2, eff. Sept. 1, 1993; Laws 1993, c. 360, § 3, eff. Sept. 1, 1993; Laws 1994, c. 2, § 10, emerg. eff. March 2, 1994; Laws 1994, c. 308, § 2, emerg. eff. June 7, 1994; Laws 1995, c. 193, § 3, eff. July 1, 1995; Laws 1995, c. 286, § 6, eff. July 1, 1995; Laws 1996, c. 304, § 2, emerg. eff. June 10, 1996; Laws 1997, c. 133, § 70, eff. July 1, 1999; Laws 1999, 1st Ex. Sess., c. 5, § 21, eff. July 1, 1999; Laws 1999, 1st Ex. Sess., c. 4, § 27, eff. July 1, 1999; Laws 2000, c. 6, § 5, emerg. eff. March 20, 2000; Laws 2000, c. 349, § 6, eff. Nov. 1, 2000; Laws 2001, c. 437, § 18, eff. July 1, 2001; Laws 2002, c. 460, § 20, eff. Nov. 1, 2002; Laws 2004, c. 275, § 12, eff. July 1, 2004; Laws 2005, c. 1, § 18, emerg. eff. March 15, 2005; Laws 2005, c. 374, § 2, eff. Nov. 1, 2005; Laws 2010, c. 113, § 2; Laws 2013, c. 80, § 2; Laws 2013, c. 175, § 2, eff. Nov. 1, 2013; Laws 2014, c. 219, § 1, eff. Nov. 1, 2014; Laws 2015, c. 209, § 1, eff. Nov. 1, 2015; Laws 2018, c. 128, § 12, eff. Nov. 1, 2018; Laws 2019, c. 459, § 4, eff. Nov. 1, 2019.

NOTE: Laws 1993, c. 81, § 4 repealed by Laws 1993, c. 339, § 4, eff. Sept. 1, 1993 and by Laws 1993, c. 360, § 17, eff. Sept. 1, 1993. Laws 1993, c. 339, § 2 repealed by Laws 1994, c. 2, § 34, emerg. eff. March 2, 1994. Laws 1995, c. 75, § 1 repealed by Laws 1995, c. 286, § 17, eff. July 1, 1995. Laws 1999, c. 359, § 1 repealed by Laws 2000, c. 6, § 33, emerg. eff. March 20, 2000. Laws 2004, c. 145, § 1 repealed by Laws 2005, c. 1, § 19, emerg. eff. March 15, 2005.