



Crimes and Punishment and Criminal Procedure

1. HB 1001 (Olsen, R-Sallisaw): Removes prohibition of convicted felons on being a passenger in a vehicle in which there is a gun and the felon is not the “possessor”.
2. HB 1019 (McEntire, R-Duncan): Liberalizes Oklahoma Criminal Discovery Code and broadens Defendants’ access to certain discovery.
3. HB 1030 (Burns, R-Pawnee): Removes prohibition on convicted felons from possessing an employee license, with certain exceptions.
4. HB 1037 (Walke, D-Oklahoma City): Bail reform.
5. HB 1145 (Bell, D-Norman): Makes more people with criminal records eligible for expungements.
6. HB 2019 (Albright, D-Midwest City): Allows judges broad discretion in handling cases with pregnant women or those who are primary caregivers of children or adults with disabilities.
7. HB 2589 (Echols, R-Oklahoma City): Changes procedures for sentencing after guilty verdicts in jury trials.
8. SB 276 (Young, D-Oklahoma City): Creates the mechanism and scope of SQ 780 retroactivity.
9. SB 282 (Matthews, D-Tulsa): Broadens voting rights for those with felony convictions.
10. SB 983 (Newhouse, R-Broken Arrow): Removes District Attorneys as sole gatekeepers to specialty courts.

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

SENATE BILL NO. 983

By: Newhouse

AS INTRODUCED

An Act relating to drug courts; amending 22 O.S. 2011, Sections 471.1, as amended by Section 1, Chapter 222, O.S.L. 2016, 471.2, as last amended by Section 1, Chapter 253, O.S.L. 2018, 471.3, as amended by Section 2, Chapter 253, O.S.L. 2018 and 471.4, as amended by Section 3, Chapter 253, O.S.L. 2018 (22 O.S. Supp. 2018, Sections 471.1, 471.2, 471.3 and 471.4), which relate to authorization of drug court programs, eligibility, initial hearing and investigation; prohibiting certain restriction by drug court program; requiring certain screening of all nonviolent felony offenders; establishing procedures for certain investigation; deleting method for certain offenders to request consideration for drug court program; modifying procedures for initial hearing under certain circumstances; modifying certain authority of district attorney; modifying requirements for certain referral; modifying requirements for determination of final eligibility for drug court programs; updating statutory references; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2011, Section 471.1, as amended by Section 1, Chapter 222, O.S.L. 2016 (22 O.S. Supp. 2018, Section 471.1), is amended to read as follows:

1 Section 471.1. A. For purposes of ~~this act~~ the Oklahoma Drug
2 Court Act, "drug court", "drug court program" or "program" means an
3 immediate and highly structured judicial intervention process for
4 substance abuse treatment of eligible offenders which expedites the
5 criminal case, and requires successful completion of the plea
6 agreement.

7 B. Each district court of this state is authorized to establish
8 a drug court program pursuant to the provisions of ~~this act~~ the
9 Oklahoma Drug Court Act, subject to availability of funds. Juvenile
10 drug courts may be established based upon the provisions of ~~this act~~
11 the Oklahoma Drug Court Act; provided, however, juveniles shall not
12 be held, processed, or treated in any manner which violates any
13 provision of Title 10A of the Oklahoma Statutes.

14 C. Drug court programs shall not apply to any violent criminal
15 offense. ~~Eligible offenses may further be restricted by the rules~~
16 ~~of the specific drug court program.~~ Nothing in ~~this act~~ the
17 Oklahoma Drug Court Act shall be construed to require a drug court
18 to consider every offender with a treatable condition or addiction,
19 regardless of the fact that the controlling offense is eligible for
20 consideration in the program. Traditional prosecution shall be
21 required where an offender is determined not appropriate for the
22 drug court program.

23 D. Drug court programs shall require a separate judicial
24 processing system differing in practice and design from the
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1 traditional adversarial criminal prosecution and trial systems.
2 Whenever possible, a drug court team shall be designated consisting
3 of a judge to administer the program, a district attorney, a defense
4 attorney, and other persons designated by the drug court team who
5 shall have appropriate understanding of the goals of the program and
6 of the appropriate treatment methods for the various conditions.
7 The assignment of any person to the drug court team shall not
8 preclude the assigned person from performing other duties required
9 in the course of their office or employment. The chief judge of the
10 judicial district, or if the district has more than one chief judge
11 than the presiding judge of the Administrative Judicial District,
12 shall designate one or more judges to administer the drug court
13 program. The assignment of any judge to a drug court program or the
14 designation of a drug court docket shall not mandate the assignment
15 of all substance abuse related cases to the drug court docket or the
16 program; however, nothing in ~~this act~~ the Oklahoma Drug Court Act
17 shall be construed to preclude the assignment of all criminal cases
18 relating to substance abuse or drug possession as provided by the
19 rules established for the specific drug court program.

20 E. When a drug court program is established, the arresting
21 officer shall file the criminal case record for potentially eligible
22 offenders with the district attorney within four (4) days of the
23 arrest. The district attorney shall file an information in the case
24 within twenty-four (24) hours of receipt of the criminal case record

1 when the offender appears eligible for consideration for the
2 program. The information may be amended as necessary when an
3 offender is denied admittance into the drug court program or for
4 other purposes as provided in Section 304 of this title. Any person
5 arrested upon a warrant for his or her arrest shall not be eligible
6 for the drug court program without the approval of the district
7 attorney. Any criminal case which has been filed and processed in
8 the traditional manner shall be cross-referenced to a drug court
9 case file by the court clerk, if the case is subsequently assigned
10 to the drug court program. The originating criminal case file shall
11 remain open to public inspection. The judge shall determine what
12 information or pleadings are to be retained in the drug court case
13 file, which shall be closed to public inspection.

14 F. The court may request assistance from the Department of
15 Mental Health and Substance Abuse Services which shall be the
16 primary agency to assist in developing and implementing a drug court
17 program or from any state or local agency in obtaining the necessary
18 treatment services which will assure maximum opportunity for
19 successful treatment, education, and rehabilitation for offenders
20 admitted to the program. All participating state and local agencies
21 are directed to coordinate with each other and cooperate in
22 assisting the district court in establishing a drug court program.

23 G. Each drug court program shall ensure, but not be limited to:

24 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

1 9. Methods for measuring performance-based effectiveness of
2 each individual treatment provider's services.

3 H. All drug court programs shall be required to keep reliable
4 data on recidivism, relapse, restarts, sanctions imposed, and
5 incentives given.

6 I. Nothing in this section shall prohibit any county from
7 establishing a drug court for misdemeanor offenses. Such
8 misdemeanor drug courts shall follow the rules and regulations of
9 felony drug courts except that the penalty for revocation shall not
10 exceed one (1) year in the county jail or the maximum penalty for
11 the misdemeanor allowed by statute, whichever is less. The
12 Department of Mental Health and Substance Abuse Services shall
13 provide technical assistance to the counties that establish
14 misdemeanor drug courts.

15 SECTION 2. AMENDATORY 22 O.S. 2011, Section 471.2, as
16 last amended by Section 1, Chapter 253, O.S.L. 2018 (22 O.S. Supp.
17 2018, Section 471.2), is amended to read as follows:

18 Section 471.2. A. The opportunity for review of an offender
19 for a drug court program shall occur at any time prior to
20 disposition of the case and sentencing of the offender, including
21 sentencing on a petition to revoke a suspended sentence or any
22 probation violation. When a drug court is established, the
23 following information shall be initially reviewed by the sheriff or
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1 designee, if the offender is held in a county jail, or by the chief
2 of police or designee, if the offender is held in a city jail:

3 1. The offender's arrest or charge does not involve a crime of
4 violence against any person, unless there is a specific treatment
5 program in the jurisdiction designed to address domestic violence
6 and the offense is related to domestic violence and substance abuse;

7 2. The offender has no prior felony conviction in this state or
8 another state for a violent offense within the last ten (10) years,
9 except as may be allowed in a domestic violence treatment program
10 authorized by the drug court program. It shall be sufficient for
11 this paragraph that a criminal history records name search was
12 conducted and indicated no apparent violent offense;

13 3. The offender's arrest or charge does not involve a violation
14 of the Trafficking In Illegal Drugs Act;

15 4. The offender has committed a felony offense; and

16 5. The offender:

- 17 a. admits to having a substance abuse addiction,
- 18 b. appears to have a substance abuse addiction,
- 19 c. is known to have a substance abuse addiction,
- 20 d. the arrest or charge is based upon an offense eligible
21 for the drug court program, or
- 22 e. is a person who has had an assessment authorized by
23 Section 3-704 of Title 43A of the Oklahoma Statutes or
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1 drug court investigation and the assessment or
2 investigation recommends the drug court program.

3 ~~B. If it appears to the reviewing officer that the offender may~~
4 ~~be potentially eligible for the drug court program based upon a~~
5 ~~review of the information in subsection A of this section, the~~
6 ~~offender shall be given an eligibility form which may be voluntarily~~
7 ~~completed by the offender, and the reviewing officer shall file the~~
8 ~~criminal case record within the time prescribed in subsection E of~~
9 ~~Section 471.1 of this title. The offender shall not automatically~~
10 ~~be considered for the program based upon this review. The offender~~
11 ~~must request consideration for the drug court program as provided in~~
12 ~~subsection C of this section and shall have approval from the~~
13 ~~district attorney before being considered for the drug court~~
14 ~~program. The eligibility form shall describe the drug court program~~
15 ~~for which the offender may be eligible, including, but not limited~~
16 ~~to~~ Any non-violent felony offender shall be screened for a substance
17 abuse or mental health disorder. If the offender is found to meet
18 eligibility criteria prescribed in subsection A of this section, the
19 offender shall be given the opportunity, prior to a preliminary
20 hearing and with the offender's consent, to undergo an investigation
21 to determine suitability for the drug court program or another
22 treatment program intended to divert offenders from incarceration.
23 The offender shall be considered for the appropriate alternative
24 court docket or diversion program unless the offender chooses to

1 return to the traditional case processing system rather than
2 undergoing the investigation. The district attorney may deny an
3 investigation for any offender who does not meet the criteria
4 specified in paragraph 1, 2 or 3 of subsection A of this section.
5 Prior to an investigation, the offender shall be advised of and
6 agree to the following:

7 1. A full description of the drug court process and
8 investigation;

9 2. A general explanation of the roles and authority of the
10 supervising staff, the district attorney, the defense attorney, the
11 treatment provider, the offender, and the judge in the drug court
12 program;

13 3. A clear statement that the drug court judge may decide after
14 a hearing not to consider the offender for the drug court program
15 and in that event the offender will be prosecuted in the traditional
16 manner;

17 4. A clear statement that the offender is required, before
18 consideration in the program, to enter a guilty plea as part of a
19 written plea agreement;

20 5. A clear statement that the plea agreement will specify the
21 offense to which the guilty plea will be entered and will state any
22 penalty to be imposed for the offense, both in the event of a
23 successful completion of the drug court program, and in the event of
24 a failure to complete the program;

1 6. A clear statement that the offender must voluntarily agree
2 to:

- 3 a. waive the right to a speedy trial,
- 4 b. waive the right to a preliminary hearing,
- 5 c. the terms and conditions of a treatment plan, and
- 6 d. sign a performance contract with the court;

7 7. A clear statement that the offender, if accepted into the
8 drug court program, may not be incarcerated for the offense in a
9 state correctional institution or jail upon successful completion of
10 the program;

11 8. A clear statement that during participation in the drug
12 court program should the offender fail to comply with the terms of
13 the agreement, the offender may be sanctioned to serve a term of
14 confinement of six (6) months in an intermediate revocation facility
15 operated by the Department of Corrections. An offender shall not be
16 allowed to serve more than two separate terms of confinement in an
17 intermediate revocation facility;

18 9. A clear statement that during participation in the drug
19 court program should the offender:

- 20 a. fail to comply with the terms of the agreements,
- 21 b. be convicted of a misdemeanor offense which reflects a
22 propensity for violence,
- 23 c. be arrested for a violent felony offense, or
- 24 d. be convicted of any felony offense,

1 the offender may be required, after a court hearing, to be revoked
2 from the program and sentenced without trial pursuant to the
3 punishment provisions of the negotiated plea agreement; and

4 10. An explanation of the criminal record retention and
5 disposition resulting from participation in the drug court program
6 following successful completion of the program.

7 C. 1. ~~The offender may request consideration for the drug~~
8 ~~court program as follows:~~

9 a. ~~if the offender is incarcerated, the offender must~~
10 ~~sign and complete the eligibility form and return it~~
11 ~~to the sheriff, if the offender is held in the county~~
12 ~~jail; or to the chief of police, if the offender is~~
13 ~~held in a city jail. The sheriff or chief of police,~~
14 ~~upon receipt of the eligibility form, shall file the~~
15 ~~form with the district attorney at the time of filing~~
16 ~~the criminal case record or at any time during the~~
17 ~~period of incarceration when the offender completes~~
18 ~~the form after the criminal case record has been~~
19 ~~filed, or~~

20 b. ~~after release of the offender from incarceration, the~~
21 ~~offender must sign and complete the eligibility form~~
22 ~~and file it with the district attorney or the court,~~
23 ~~prior to or at the time of either initial appearance~~
24 ~~or arraignment.~~

1 ~~2.~~ Any offender desiring legal consultation prior to ~~signing or~~
2 ~~completing the form~~ undergoing an investigation for suitability for
3 ~~consideration in~~ a drug court program shall be referred to the
4 defense attorney of the drug court team, or a public defender, if
5 the offender is indigent, or allowed to consult with private legal
6 counsel.

7 ~~3.~~ 2. Nothing contained in the provisions of this subsection
8 shall prohibit the drug court from considering any offender deemed
9 eligible for the program at any time prior to sentencing whose case
10 has been prosecuted in the traditional manner, or upon a violation
11 of parole or probation conditions relating to substance abuse, upon
12 recommendation of the district attorney as provided in Section 471.8
13 of this title.

14 D. When an offender has ~~filed a voluntary request to be~~
15 ~~considered for a drug court program on the appropriate form, the~~
16 ~~district attorney shall indicate his or her approval of the request~~
17 ~~by filing the form with the~~ met eligibility criteria in subsection A
18 of this section and investigation has deemed the offender suitable
19 for a drug court judge. ~~Upon the filing of the request form by the~~
20 ~~district attorney program,~~ an initial hearing shall be set before
21 the drug court judge. The hearing shall be not ~~less than three (3)~~
22 ~~work days nor~~ more than five (5) work days after the date of the
23 filing of the request form. Notice of the hearing shall be given to
24 the drug court team, or in the event no drug court team is

1 designated, to the offender, the district attorney, and to the
2 public defender. The offender shall be required to notify any
3 private legal counsel of the date and time of the hearing.

4 SECTION 3. AMENDATORY 22 O.S. 2011, Section 471.3, as
5 amended by Section 2, Chapter 253, O.S.L. 2018 (22 O.S. Supp. 2018,
6 Section 471.3), is amended to read as follows:

7 Section 471.3. A. At the initial hearing for consideration of
8 an offender for a drug court program, the district attorney ~~shall~~
9 ~~determine whether or not~~ may object to such consideration if:

10 1. ~~The offender has approval to be considered for the drug~~
11 ~~court program;~~

12 2. ~~The offender has been admitted to the program within the~~
13 ~~preceding five (5) years; provided, having been admitted to a drug~~
14 ~~court program within the previous five (5) years shall not make the~~
15 ~~offender ineligible for consideration; and~~ or

16 3. 2. ~~Any statutory preclusion, other prohibition, or program~~
17 ~~limitation~~ exists and is applicable to considering the offender for
18 the program.

19 ~~The district attorney may object to the consideration of an~~
20 ~~offender for the drug court program at the initial hearing.~~

21 B. If the offender meets the eligibility criteria as provided
22 in Section 471.2 of this title, voluntarily consents to ~~be~~
23 ~~considered for the drug court program, has signed and filed the~~
24 ~~required form requesting consideration~~ undergo a drug court

1 investigation, and no objection has been made by the district
2 attorney, the court shall refer the offender for a drug court
3 investigation as provided in Section 471.4 of this title, and set a
4 date for a hearing to determine final eligibility for admittance
5 into the program.

6 C. ~~Upon any objection of the district attorney for~~
7 ~~consideration of an offender for the program, the court shall deny~~
8 ~~consideration of the offender's request for participation in the~~
9 ~~drug court program.~~ Upon denial for consideration in the drug court
10 program at the initial hearing, the criminal case shall proceed in
11 the traditional manner. An objection by the district attorney and
12 the subsequent denial of consideration of the offender for the
13 program shall not preclude any future consideration of the offender
14 for the drug court program with the approval of the district
15 attorney.

16 SECTION 4. AMENDATORY 22 O.S. 2011, Section 471.4, as
17 amended by Section 3, Chapter 253, O.S.L. 2018 (22 O.S. Supp. 2018,
18 Section 471.4), is amended to read as follows:

19 Section 471.4. A. When directed by the drug court judge, the
20 supervising staff for the drug court program shall make an
21 investigation of the offender under consideration to determine
22 whether or not the offender is a person who:

- 23 1. Would benefit from the drug court program; and
- 24 2. Is appropriate for the drug court program.

1 B. The drug court investigation shall be conducted through a
2 standardized screening test and personal interview. A more
3 comprehensive assessment may take place at the time the offender
4 enters the treatment portion of the program and may take place at
5 any time after placement in the drug court program. The
6 investigation shall determine the original treatment plan which the
7 offender will be required to follow, if admitted to the program.
8 Any subsequent assessments or evaluations by the treatment provider,
9 if the offender is admitted to the program, may be used to determine
10 modifications needed to the original treatment plan. The
11 investigation shall include, but not be limited to, the following
12 information:

- 13 1. The person's age and physical condition;
- 14 2. Employment and military service records;
- 15 3. Educational background and literacy level;
- 16 4. Community and family relations;
- 17 5. Prior and current drug and alcohol use;
- 18 6. Mental health and medical treatment history, including
19 substance abuse treatment history;
- 20 7. Demonstrable motivation; and
- 21 8. Other mitigating or aggravating factors.

22 C. The drug court investigation may be conducted before or
23 after the initial hearing for consideration but shall occur before
24 the hearing for final determination of eligibility for the drug
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1 court program. When an offender is appropriate for admittance to
2 the program, the supervising staff shall make a recommendation for
3 the treatment program or programs that are available in the
4 jurisdiction and which would benefit the offender and accept the
5 offender. The investigation findings and recommendations for
6 program placement shall be reported to the drug court judge, the
7 district attorney, the offender, and the defense attorney prior to
8 the next scheduled hearing.

9 D. The district attorney and the defense attorney for the
10 offender shall independently review the findings and recommendations
11 of the drug court investigation report. ~~For an offender to remain~~
12 ~~eligible for consideration in~~ Prior to beginning the program, both
13 the district attorney and the defense attorney must accept the
14 recommended treatment plan, and shall negotiate the terms of the
15 written plea agreement with all punishment provisions specified
16 before the scheduled hearing date ~~for determining final eligibility.~~
17 ~~Upon failure of the district attorney and defense attorney to~~
18 ~~negotiate the written plea agreement, the criminal case shall be~~
19 ~~withdrawn from the drug court program and processed in the~~
20 ~~traditional manner.~~ The punishment provisions of the written plea
21 agreement shall emphasize reparation to the victim, community, and
22 state.

23 E. The hearing to determine final eligibility shall be set not
24 ~~less than three (3) work days nor~~ more than seven (7) work days from
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1 the date of the initial hearing for consideration, unless extended
2 by the court.

3 F. For purposes of ~~this act~~ the Oklahoma Drug Court Act,
4 "supervising staff" means a Department of Corrections employee
5 assigned to monitor offenders in the drug court program, a community
6 provider assigned to monitor offenders in the program, a state or
7 local agency representative or a certified treatment provider
8 participating in the program, or a person designated by the judge to
9 perform drug court investigations.

10 SECTION 5. This act shall become effective November 1, 2019.

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STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

SENATE BILL 282

By: Matthews

AS INTRODUCED

An Act relating to elections; creating the Oklahoma Restoration of Voting Rights Act; amending 26 O.S. 2011, Sections 4-101 and 4-120, which relate to voter registration; modifying voting rights of convicted felons sentenced to incarceration; authorizing the court to notify certain persons of their loss of voting rights for a certain period of time; authorizing the Secretary of the State Election Board to develop certain programs to educate certain persons about the requirements of this act; authorizing the Secretary of the State Election Board to promulgate rules; modifying reasons for cancellation of voter registration; requiring the Department of Corrections to transmit certain lists to the State Election Board; stating information to be included on certain lists; requiring the Secretary of the State Election Board to notify county election boards of the cancellation of certain registrations; requiring the Secretary of the State Election Board to notify county election boards of the reinstatement of certain persons eligible and registered to vote; providing that certain persons not be civilly liable for certain actions; providing retroactive application to certain persons eligible to vote; granting certain authority to State Election Board and State Board of Corrections; repealing 26 O.S. 2011, Section 4-120.4, which relates to cancellation of registration of convicted felons; providing for codification; providing for noncodification; and declaring an emergency.

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

1 SECTION 1. NEW LAW A new section of law not to be
2 codified in the Oklahoma Statutes reads as follows:

3 This act shall be known and may be cited as the "Oklahoma
4 Restoration of Voting Rights Act".

5 SECTION 2. AMENDATORY 26 O.S. 2011, Section 4-101, is
6 amended to read as follows:

7 Section 4-101. Every person who is a qualified elector as
8 defined by Section 1 of Article III of the Oklahoma Constitution
9 shall be entitled to become a registered voter in the precinct of
10 his or her residence, with the following exceptions:

11 1. Persons convicted of a felony and sentenced to incarceration
12 shall be ineligible to ~~register for a period of time equal to the~~
13 ~~time prescribed in the judgment and sentence.~~ become a registered
14 voter while incarcerated; and

15 2. Any person who has been adjudged to be an incapacitated
16 person as such term is defined by Section 1-111 of Title 30 of the
17 Oklahoma Statutes, shall be ineligible to register to vote. When
18 such incapacitated person has been adjudged to be no longer
19 incapacitated such person shall be eligible to become a registered
20 voter. The provisions of this paragraph shall not prohibit any
21 person adjudged to be a partially incapacitated person as such term
22 is defined by Section 1-111 of Title 30 of the Oklahoma Statutes
23 from being eligible to register to vote unless the order adjudging
24

1 the person to be partially incapacitated restricts such persons from
2 being eligible to register to vote.

3 SECTION 3. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 4-101.1 of Title 26, unless
5 there is created a duplication in numbering, reads as follows:

6 A. Before accepting a plea of guilty or nolo contendere to a
7 felony, and before imposing sentence for such a felony after trial,
8 the court shall notify the defendant that conviction will result in
9 loss of the right to vote only if and for as long as the person is
10 incarcerated and that voting rights are restored upon release.

11 B. The Secretary of the State Election Board shall ensure that
12 persons who become eligible to vote upon their release from
13 incarceration face no continued barriers to registration or voting
14 resulting from their felony convictions.

15 C. The Secretary of the State Election Board shall develop and
16 implement a program to educate attorneys, judges, election
17 officials, corrections officials, including parole and probation
18 officers and members of the public about the requirements of this
19 section and Section 4-101 of Title 26 of the Oklahoma Statutes
20 ensuring that:

21 1. Judges are informed of their obligation to notify criminal
22 defendants of the potential loss and restoration of their voting
23 rights, in accordance with subsection A of this section;
24

1 2. The Department of Corrections and, subject to their
2 agreement, federal correctional institutions in Oklahoma, are
3 prepared to assist people with registering to vote in anticipation
4 of their release, including by forwarding their completed voter
5 registration forms to the county election boards;

6 3. The language on voter registration forms makes clear that
7 people are disqualified from voting while incarcerated on felony
8 convictions and that they regain the right to vote when released
9 from incarceration;

10 4. The Department of Corrections and, subject to their
11 agreement, federal correctional institutions in Oklahoma are
12 prepared to transmit to the Secretary of State the information
13 specified in Section 5 of this act;

14 5. The staff of the State Election Board and the secretaries of
15 county election boards are prepared both to purge and to restore
16 names to the Oklahoma Election Management System in accordance with
17 Section 5 of this act; and

18 6. Accurate and complete information about the voting rights of
19 people who have been charged with or convicted of crimes, whether
20 disfranchising or not, is made available through a single
21 publication to government officials and the public.

22 D. The Secretary of the State Election Board shall promulgate
23 rules as necessary to implement this section.
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SECTION 4. AMENDATORY 26 O.S. 2011, Section 4-120, is amended to read as follows:

Section 4-120. The registration of any registered voter may be cancelled only for one of the following reasons:

1. Written notice from the voter; ~~death;~~
2. Death;
3. Incarceration upon conviction of a felony; ~~judicial~~
4. Judicial determination of mental incapacitation under Title 30 of the Oklahoma Statutes; ~~registration~~
5. Registration in another county or state; ~~or failure~~
6. Failure to respond to a confirmation of address mailing; and ~~failure~~
7. Failure to vote as prescribed in Section ~~21~~ 4-120.2 of this ~~act~~ title.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4-120.11 of Title 26, unless there is created a duplication in numbering, reads as follows:

A. The Department of Corrections and, subject to their agreement, federal correctional institutions in Oklahoma, shall, on or before the fifteenth day of each month, transmit to the Secretary of the State Election Board two lists. The first list shall contain the following information about persons age eighteen (18) or older who, during the preceding period, have become ineligible to vote because of their conviction of a felony. The second list shall

1 contain the following information about persons age eighteen (18) or
2 older who, during the preceding period, have become eligible to vote
3 because of their release from incarceration:

- 4 1. Name;
- 5 2. Date of birth;
- 6 3. Last-known address with county of residence;
- 7 4. Date of conviction; and
- 8 5. If known, the driver license number or the last four digits
9 of the Social Security number.

10 B. The Secretary of the State Election Board shall cause the
11 voter registrations of persons who are ineligible to vote because of
12 their conviction of a felony to be canceled in the county of the
13 person's residence, and shall notify the secretary of the
14 appropriate county election board of the cancellation. The
15 Secretary of the State Election Board shall likewise ensure that the
16 names of persons who are eligible and registered to vote following
17 their release from incarceration are added to the Oklahoma Election
18 Management System in the same manner as all other names are added to
19 that list, in accordance with Section 4-114 of Title 26 of the
20 Oklahoma Statutes.

21 C. The Secretary of the State Election Board, secretaries of
22 county election boards and their agents and employees shall not be
23 held civilly liable for any action taken based upon information
24 received pursuant to the provisions of this section if a reasonable
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1 effort was made to make an accurate match of the information
2 provided with voter registration records before taking any action
3 relating to voter registration.

4 SECTION 6. NEW LAW A new section of law not to be
5 codified in the Oklahoma Statutes reads as follows:

6 Upon the effective date of the Oklahoma Restoration of Voting
7 Rights Act, the provisions of this act shall have retroactive
8 application to all persons who are eligible to vote under its terms,
9 regardless of whether they were convicted or released from
10 incarceration prior to its effective date. The State Election Board
11 and the State Board of Corrections shall be authorized to promulgate
12 rules and take any other action they deem necessary to implement the
13 provisions of this section.

14 SECTION 7. REPEALER 26 O.S. 2011, Section 4-120.4, is
15 hereby repealed.

16 SECTION 8. It being immediately necessary for the preservation
17 of the public peace, health or safety, an emergency is hereby
18 declared to exist, by reason whereof this act shall take effect and
19 be in full force from and after its passage and approval.
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STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

SENATE BILL 276

By: Young

AS INTRODUCED

An Act relating to modification of sentences; amending 22 O.S. 2011, Sections 982a, 991b and 991c, as last amended by Sections 1, 11 and 12, Chapter 128, O.S.L. 2018 (22 O.S. Supp. 2018, Sections 982a, 991b and 991c), which relate to judicial review, suspended and deferred sentences; requiring resentencing of persons convicted of certain offenses; establishing procedures for certain resentencing; establishing time limitation for certain resentencing upon application; requiring modification of certain court and law enforcement records; allowing appeal of certain judgment; requiring Department of Corrections to compile and distribute certain report; specifying information for inclusion in certain report; requiring notice of right for application for sentence modification to certain offenders; providing for termination of certain provisions; modifying procedures for certain proceedings; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2011, Section 982a, as last amended by Section 1, Chapter 128, O.S.L. 2018 (22 O.S. Supp. 2018, Section 982a), is amended to read as follows:

Section 982a. A. 1. Any time within sixty (60) months after the initial sentence is imposed or within sixty (60) months after

1 probation has been revoked, the court imposing sentence or
2 revocation of probation may modify such sentence or revocation by
3 directing that another sentence be imposed, if the court is
4 satisfied that the best interests of the public will not be
5 jeopardized; provided, however, the court shall not impose a
6 deferred sentence. Any application for sentence modification that
7 is filed and ruled upon beyond twelve (12) months of the initial
8 sentence being imposed must be approved by the district attorney who
9 shall provide written notice to any victims in the case which is
10 being considered for modification.

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

21 3. This section shall not apply to convicted felons who have
22 been in confinement in any state or federal prison system for any
23 previous felony conviction during the ten-year period preceding the
24 date that the sentence this section applies to was imposed.

1 Further, without the consent of the district attorney, this section
2 shall not apply to sentences imposed pursuant to a plea agreement or
3 jury verdict.

4 B. The court imposing the sentence may modify the sentence of
5 any offender sentenced to life without parole for an offense other
6 than a violent crime, as enumerated in Section 571 of Title 57 of
7 the Oklahoma Statutes, who has served at least ten (10) years of the
8 sentence in the custody of the Department of Corrections upon a
9 finding that the best interests of the public will not be
10 jeopardized. Provided; however, prior to granting a sentence
11 modification under the provisions of this subsection, the court
12 shall provide notice of the hearing to determine sentence
13 modification to the victim or representative of the victim and shall
14 allow the victim or representative of the victim the opportunity to
15 provide testimony at the hearing. The court shall consider the
16 testimony of the victim or representative of the victim when
17 rendering a decision to modify the sentence of an offender.

18 C. For purposes of judicial review, upon court order or written
19 request from the sentencing judge, the Department of Corrections
20 shall provide the court imposing sentence or revocation of probation
21 with a report to include a summary of the assessed needs of the
22 offender, any progress made by the offender in addressing his or her
23 assessed needs, and any other information the Department can supply
24 on the offender. The court shall consider such reports when

1 modifying the sentence or revocation of probation. The court shall
2 allow the Department of Corrections at least twenty (20) days after
3 receipt of a request or order from the court to prepare the required
4 reports.

5 D. If the court considers modification of the sentence or
6 revocation of probation, a hearing shall be made in open court after
7 receipt of the reports required in subsection C of this section.
8 The clerk of the court imposing sentence or revocation of probation
9 shall give notice of the judicial review hearing to the Department
10 of Corrections, the offender, the legal counsel of the offender, and
11 the district attorney of the county in which the offender was
12 convicted upon receipt of the reports. Such notice shall be mailed
13 at least twenty-one (21) days prior to the hearing date and shall
14 include a copy of the report and any other written information to be
15 considered at the judicial review hearing.

16 E. If an appeal is taken from the original sentence or from a
17 revocation of probation which results in a modification of the
18 sentence or modification to the revocation of probation of the
19 offender, such sentence may be further modified in the manner
20 described in paragraph 1 of subsection A of this section within
21 sixty (60) months after the receipt by the clerk of the district
22 court of the mandate from the Supreme Court or the Court of Criminal
23 Appeals.

1 F. 1. Notwithstanding subsections A, C and D of this section,
2 the court shall set aside the judgment and sentence and resentence a
3 person convicted pursuant to Section 2-402 of Title 63 of the
4 Oklahoma Statutes, whether by trial or plea, upon a finding that the
5 person, if such person committed the same crime on or after July 1,
6 2017, would have been guilty of a misdemeanor, and who is a person:

7 a. enumerated by the Department of Corrections pursuant
8 to Section 2 of this act who is currently serving a
9 sentence of imprisonment,

10 b. considered for a revocation of a suspended sentence
11 pursuant to subsection G of Section 991b of this
12 title, or

13 c. considered for an acceleration of a deferred sentence
14 pursuant to subsection K of Section 991c of this
15 title.

16 2. A hearing shall not be conducted to modify a sentence
17 pursuant to this subsection unless requested by the person.

18 If the person's sentence includes multiple felony convictions,
19 one or more of which were reduced to misdemeanors pursuant to this
20 subsection, the court shall reduce the sentence to the length it
21 would have been if the violation of Section 2-402 of Title 63 of the
22 Oklahoma Statutes was committed on or after July 1, 2017.

23 The court shall resentence each person set forth in subparagraph
24 a of paragraph 1 of this subsection within three (3) months of

1 receipt of the report pursuant to Section 2 of this act. The court
2 shall resentence each person set forth in subparagraphs b and c of
3 paragraph 1 of this subsection within six (6) months of referral.

4 A person whose sentence is modified pursuant to this subsection
5 shall be given credit for time served. In no event may a resentence
6 under this subsection result in the imposition of a term longer than
7 the original sentence.

8 3. A sentence for Section 2-402 of Title 63 of the Oklahoma
9 Statutes that is modified pursuant to this subsection shall be
10 considered a misdemeanor for all purposes. Upon a sentence
11 modification pursuant to this subsection, the court shall order all
12 applicable court and law enforcement records relating to the
13 person's felony conviction pursuant to Section 2-402 of Title 63 of
14 the Oklahoma Statutes to be modified to reflect the new sentence.

15 4. A final judgment entered under this subsection may be
16 appealed to the Court of Criminal Appeals within thirty (30) days
17 from the entry of the judgment.

18 SECTION 2. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 983c of Title 22, unless there
20 is created a duplication in numbering, reads as follows:

21 The Director of the Department of Corrections shall compile and
22 distribute a report on or before August 1, 2019, and every three (3)
23 months thereafter, to each presiding judge for each district court
24 from which any person has been sentenced and is currently serving a

1 sentence of imprisonment, including revocation and acceleration
2 sentences, for a conviction pursuant to Section 2-402 of Title 63 of
3 Oklahoma Statutes, who committed his or her offense prior to July 1,
4 2017, and has three (3) months or more remaining until his or her
5 expected release date. Such report shall include persons currently
6 serving a sentence of imprisonment for multiple offenses, served
7 concurrently or consecutively, one or more of which is for a
8 conviction pursuant to Section 2-402 of Title 63 of the Oklahoma
9 Statutes. Such report shall include the county from which a person
10 was sentenced, the court-imposed sentence, including sentences for
11 other offenses served concurrently or consecutively, and the
12 expected remaining stay in prison. Copies of the reports shall be
13 made available to the public upon request. The Department shall
14 notify any person serving a sentence of imprisonment for a
15 conviction pursuant to Section 2-402 of Title 63 of the Oklahoma
16 Statutes who committed his or her offense prior to July 1, 2017, who
17 has three (3) months or less remaining until the expected release
18 date, that he or she has the right to apply for sentence
19 modification for a conviction pursuant to Section 2-402 of Title 63
20 of the Oklahoma Statutes.

21 This section shall terminate on August 1st, 2024.

22 SECTION 3. AMENDATORY 22 O.S. 2011, Section 991b, as
23 last amended by Section 11, Chapter 128, O.S.L. 2018 (22 O.S. Supp.
24 2018, Section 991b), is amended to read as follows:

1 Section 991b. A. Whenever a sentence has been suspended by the
2 court after conviction of a person for any crime, the suspended
3 sentence of the person may not be revoked, in whole or part, for any
4 cause unless a petition setting forth the grounds for such
5 revocation is filed by the district attorney with the clerk of the
6 sentencing court and competent evidence justifying the revocation of
7 the suspended sentence is presented to the court at a hearing to be
8 held for that purpose within twenty (20) days after the entry of the
9 plea of not guilty to the petition, unless waived by both the state
10 and the defendant. The State of Oklahoma may dismiss the petition
11 without prejudice one time upon good cause shown to the court,
12 provided that any successor petition must be filed within forty-five
13 (45) days of the date of the dismissal of the petition.

14 B. Whenever a sentence has been suspended by the court after
15 conviction of a person for any crime, the suspended sentence of the
16 person may not be revoked in whole for a technical violation unless
17 a petition setting forth the grounds for such revocation is filed by
18 the district attorney with the clerk of the sentencing court and
19 competent evidence justifying the revocation of the suspended
20 sentence is presented to the court at a hearing to be held for that
21 purpose within twenty (20) days after the entry of the plea of not
22 guilty to the petition, unless waived by both the state and the
23 defendant. The State of Oklahoma may dismiss the petition without
24 prejudice one time upon good cause shown to the court, provided that

1 any successor petition must be filed within forty-five (45) days of
2 the date of the dismissal of the petition. Any revocation of a
3 suspended sentence based on a technical violation shall not exceed
4 six (6) months for a first revocation and five (5) years for a
5 second or subsequent revocation.

6 C. "Technical violation" as used in this section means a
7 violation of the court-imposed rules and conditions of probation,
8 other than:

- 9 1. Committing or being arrested for a new crime;
- 10 2. Attempting to falsify a drug screen, or three (3) or more
11 failed drug or alcohol screens within a three (3) month period;
- 12 3. Failing to pay restitution;
- 13 4. Tampering with an electronic monitoring device;
- 14 5. Failing to initially report or missing assigned reporting
15 requirements for an excess of sixty (60) days;
- 16 6. Unlawfully contacting a victim, co-defendant or criminal
17 associates;
- 18 7. Five (5) or more separate and distinct technical violations
19 within a ninety-day period; or
- 20 8. Any violation of the Specialized Sex Offender Rules.

21 D. 1. The Department of Corrections shall develop a matrix of
22 technical violations and sanctions to address violations committed
23 by persons who are being supervised by the Department. The
24 Department shall be authorized to use a violation response and

1 intermediate sanction process based on the sanction matrix to apply
2 to any technical violations of probationers. Within four (4)
3 working days of the discovery of the violation, the probation
4 officer shall initiate the violation response and intermediate
5 sanction process. The sentencing judge may authorize any
6 recommended sanctions, which may include, but are not limited to:
7 short-term jail or lockup, day treatment, program attendance,
8 community service, outpatient or inpatient treatment, monetary
9 fines, curfews, ignition interlock devices on vehicles, or a one-
10 time referral to a term of confinement of six (6) months in an
11 intermediate revocation facility operated by the Department of
12 Corrections; provided, upon approval of the district attorney, a
13 person may be sanctioned to serve additional terms of confinement in
14 an intermediate revocation facility. The probation officer shall
15 complete a sanction form, which shall specify the technical
16 violation, sanction, and the action plan to correct the noncompliant
17 behavior resulting in the technical violation. The probation
18 officer shall refer to the sanctioning matrix to determine the
19 supervision, treatment, and sanctions appropriate to address the
20 noncompliant behavior. The probation officer shall refer the
21 violation information and recommended response with a sanction plan
22 to the Department of Corrections to be heard by a hearing officer.
23 The Department of Corrections shall develop a sanction matrix,
24 forms, policies and procedures necessary to implement this

1 provision. The Department of Corrections shall establish procedures
2 to hear responses to technical violations and review sanction plans
3 including the following:

- 4 a. hearing officers shall report through a chain of
5 command separate from that of the supervising
6 probation officers,
- 7 b. the Department shall provide the offender written
8 notice of the violation, the evidence relied upon, and
9 the reason the sanction was imposed,
- 10 c. the hearing shall be held unless the offender waives
11 the right to the hearing,
- 12 d. hearings shall be electronically recorded, and
- 13 e. the Department shall provide to judges and district
14 attorneys a record of all violations and actions taken
15 pursuant to this subsection.

16 2. The hearing officer shall determine based on a preponderance
17 of the evidence whether a technical violation occurred. Upon a
18 finding that a technical violation occurred, the hearing officer may
19 order the offender to participate in the recommended sanction plan
20 or may modify the plan. Offenders who accept the sanction plan
21 shall sign a violation response sanction form, and the hearing
22 officer shall then impose the sanction. Failure of the offender to
23 comply with the imposed sanction plan shall constitute a violation
24 of the rules and conditions of supervision that may result in a

1 revocation proceeding. If an offender does not voluntarily accept
2 the recommended sanction plan, the Department shall either impose
3 the sanction and allow the offender to appeal to the district court,
4 or request a revocation proceeding as provided by law. Every
5 administrative hearing and sanction imposed by the Department shall
6 be appealable to the district court.

7 3. Absent a finding of willful nonpayment by the offender, the
8 failure of an offender to pay fines and costs may not serve as a
9 basis for revocation, excluding restitution.

10 E. 1. Where one of the grounds for revocation is the failure
11 of the defendant to make restitution as ordered, the Department of
12 Corrections shall forward to the district attorney all information
13 pertaining to the failure of the defendant to make timely
14 restitution as ordered by the court, and the district attorney shall
15 file a petition setting forth the grounds for revocation.

16 2. The defendant ordered to make restitution can petition the
17 court at any time for remission or a change in the terms of the
18 order of restitution if the defendant undergoes a change of
19 condition which materially affects the ability of the defendant to
20 comply with the order of the court.

21 3. At the hearing, if one of the grounds for the petition for
22 revocation is the failure of the defendant to make timely
23 restitution as ordered by the court, the court will hear evidence
24 and if it appears to the satisfaction of the court from such

1 evidence that the terms of the order of restitution create a
2 manifest hardship on the defendant or the immediate family of the
3 defendant, the court may cancel all or any part of the amount still
4 due, or modify the terms or method of payment. Provided, if the
5 court determines that a reduction in the restitution still due is
6 warranted, the court shall equally apply the same percentage
7 reduction to any court-ordered monetary obligation owed by the
8 defendant including, but not limited to, fines, court costs and
9 costs of incarceration.

10 F. The court may revoke a portion of the sentence and leave the
11 remaining part not revoked, but suspended for the remainder of the
12 term of the sentence, and under the provisions applying to it. The
13 person whose suspended sentence is being considered for revocation
14 at the hearing shall have the right to be represented by counsel, to
15 present competent evidence in his or her own behalf and to be
16 confronted by the witnesses against the defendant. Any order of the
17 court revoking the suspended sentence, in whole or in part, shall be
18 subject to review on appeal, as in other appeals of criminal cases.
19 Provided, however, that if the crime for which the suspended
20 sentence is given was a felony, the defendant may be allowed bail
21 pending appeal. If the reason for revocation be that the defendant
22 committed a felony, the defendant shall not be allowed bail pending
23 appeal.
24

1 G. Notwithstanding subsections A and B of this section, in any
2 proceeding under this section for a person whose suspended sentence
3 was for a violation of Section 2-402 of Title 63 of the Oklahoma
4 Statutes and was entered prior to July 1, 2017, the person shall
5 have his or her underlying judgment and sentence for the violation
6 of Section 2-402 of Title 63 of the Oklahoma Statutes set aside by
7 the court shall be resentenced pursuant to subsection F of Section
8 982a of this title.

9 SECTION 4. AMENDATORY 22 O.S. 2011, Section 991c, as
10 last amended by Section 12, Chapter 128, O.S.L. 2018 (22 O.S. Supp.
11 2018, Section 991c), is amended to read as follows:

12 Section 991c. A. Upon a verdict or plea of guilty or upon a
13 plea of nolo contendere, but before a judgment of guilt, the court
14 may, without entering a judgment of guilt and with the consent of
15 the defendant, defer further proceedings upon the specific
16 conditions prescribed by the court not to exceed a seven-year
17 period, except as authorized under subsection B of this section.
18 The court shall first consider restitution among the various
19 conditions it may prescribe. The court may also consider ordering
20 the defendant to:

- 21 1. Pay court costs;
- 22 2. Pay an assessment in lieu of any fine authorized by law for
23 the offense;
- 24 3. Pay any other assessment or cost authorized by law;

1 4. Engage in a term of community service without compensation,
2 according to a schedule consistent with the employment and family
3 responsibilities of the defendant;

4 5. County jail confinement for a period not to exceed ninety
5 (90) days or the maximum amount of jail time provided for the
6 offense, if it is less than ninety (90) days;

7 6. Pay an amount as reimbursement for reasonable attorney fees,
8 to be paid into the court fund, if a court-appointed attorney has
9 been provided to defendant;

10 7. Be supervised in the community for a period not to exceed
11 eighteen (18) months, unless a petition alleging violation of any
12 condition of deferred judgment is filed during the period of
13 supervision. As a condition of any supervision, the defendant shall
14 be required to pay a supervision fee of Forty Dollars (\$40.00) per
15 month. The supervision fee shall be waived in whole or part by the
16 supervisory agency when the accused is indigent. No person shall be
17 denied supervision based solely on the inability of the person to
18 pay a fee;

19 8. Pay into the court fund a monthly amount not exceeding Forty
20 Dollars (\$40.00) per month during any period during which the
21 proceedings are deferred when the defendant is not to be supervised
22 in the community. The total amount to be paid into the court fund
23 shall be established by the court and shall not exceed the amount of
24 the maximum fine authorized by law for the offense;

1 9. Make other reparations to the community or victim as
2 required and deemed appropriate by the court;

3 10. Order any conditions which can be imposed for a suspended
4 sentence pursuant to paragraph 1 of subsection A of Section 991a of
5 this title; or

6 11. Any combination of the above provisions.

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

21 B. When the court has ordered restitution as a condition of
22 supervision as provided for in subsection A of this section and that
23 condition has not been satisfied, the court may, at any time prior
24

1 to the termination or expiration of the supervision period, order an
2 extension of supervision for a period not to exceed three (3) years.

3 C. In addition to any conditions of supervision provided for in
4 subsection A of this section, the court shall, in the case of a
5 person before the court for the offense of operating or being in
6 control of a motor vehicle while the person was under the influence
7 of alcohol, other intoxicating substance, or a combination of
8 alcohol and another intoxicating substance, or who is before the
9 court for the offense of operating a motor vehicle while the ability
10 of the person to operate such vehicle was impaired due to the
11 consumption of alcohol, require the person to participate in an
12 alcohol and drug substance abuse evaluation program offered by a
13 facility or qualified practitioner certified by the Department of
14 Mental Health and Substance Abuse Services for the purpose of
15 evaluating the receptivity to treatment and prognosis of the person.
16 The court shall order the person to reimburse the facility or
17 qualified practitioner for the evaluation. The Department of Mental
18 Health and Substance Abuse Services shall establish a fee schedule,
19 based upon the ability of a person to pay, provided the fee for an
20 evaluation shall not exceed Seventy-five Dollars (\$75.00). The
21 evaluation shall be conducted at a certified facility, the office of
22 a qualified practitioner or at another location as ordered by the
23 court. The facility or qualified practitioner shall, within
24 seventy-two (72) hours from the time the person is assessed, submit

1 a written report to the court for the purpose of assisting the court
2 in its determination of conditions for deferred sentence. No
3 person, agency or facility operating an alcohol and drug substance
4 abuse evaluation program certified by the Department of Mental
5 Health and Substance Abuse Services shall solicit or refer any
6 person evaluated pursuant to this subsection for any treatment
7 program or alcohol and drug substance abuse service in which the
8 person, agency or facility has a vested interest; however, this
9 provision shall not be construed to prohibit the court from ordering
10 participation in or any person from voluntarily utilizing a
11 treatment program or alcohol and drug substance abuse service
12 offered by such person, agency or facility. Any evaluation report
13 submitted to the court pursuant to this subsection shall be handled
14 in a manner which will keep the report confidential from review by
15 the general public. Nothing contained in this subsection shall be
16 construed to prohibit the court from ordering judgment and sentence
17 in the event the defendant fails or refuses to comply with an order
18 of the court to obtain the evaluation required by this subsection.
19 As used in this subsection, "qualified practitioner" means a person
20 with at least a bachelor's degree in substance abuse treatment,
21 mental health or a related health care field and at least two (2)
22 years of experience in providing alcohol abuse treatment, other drug
23 abuse treatment, or both alcohol and other drug abuse treatment who
24 is certified each year by the Department of Mental Health and

1 Substance Abuse Services to provide these assessments. However, any
2 person who does not meet the requirements for a qualified
3 practitioner as defined herein, but who has been previously
4 certified by the Department of Mental Health and Substance Abuse
5 Services to provide alcohol or drug treatment or assessments, shall
6 be considered a qualified practitioner provided all education,
7 experience and certification requirements stated herein are met by
8 September 1, 1995. The court may also require the person to
9 participate in one or both of the following:

10 1. An alcohol and drug substance abuse course, pursuant to
11 Sections 3-452 and 3-453 of Title 43A of the Oklahoma Statutes; and

12 2. A victims impact panel program, as defined in subsection H
13 of Section 991a of this title, if such a program is offered in the
14 county where the judgment is rendered. The defendant shall be
15 required to pay a fee of not less than Fifteen Dollars (\$15.00) nor
16 more than Sixty Dollars (\$60.00) as set by the governing authority
17 of the program and approved by the court to the victims impact panel
18 program to offset the cost of participation by the defendant, if in
19 the opinion of the court the defendant has the ability to pay such
20 fee.

21 D. Upon completion of the conditions of the deferred judgment,
22 and upon a finding by the court that the conditions have been met
23 and all fines, fees, and monetary assessments have been paid as
24 ordered, the defendant shall be discharged without a court judgment

1 of guilt, and the court shall order the verdict or plea of guilty or
2 plea of nolo contendere to be expunged from the record and the
3 charge shall be dismissed with prejudice to any further action. The
4 procedure to expunge the record of the defendant shall be as
5 follows:

6 1. All references to the name of the defendant shall be deleted
7 from the docket sheet;

8 2. The public index of the filing of the charge shall be
9 expunged by deletion, mark-out or obliteration;

10 3. Upon expungement, the court clerk shall keep a separate
11 confidential index of case numbers and names of defendants which
12 have been obliterated pursuant to the provisions of this section;

13 4. No information concerning the confidential file shall be
14 revealed or released, except upon written order of a judge of the
15 district court or upon written request by the named defendant to the
16 court clerk for the purpose of updating the criminal history record
17 of the defendant with the Oklahoma State Bureau of Investigation;
18 and

19 5. Defendants qualifying under Section 18 of this title may
20 petition the court to have the filing of the indictment and the
21 dismissal expunged from the public index and docket sheet. This
22 section shall not be mutually exclusive of Section 18 of this title.

23 Records expunged pursuant to this subsection shall be sealed to
24 the public but not to law enforcement agencies for law enforcement
25

1 purposes. Records expunged pursuant to this subsection shall be
2 admissible in any subsequent criminal prosecution to prove the
3 existence of a prior conviction or prior deferred judgment without
4 the necessity of a court order requesting the unsealing of such
5 records.

6 E. The provisions of subsection D of this section shall be
7 retroactive.

8 F. Whenever a judgment has been deferred by the court according
9 to the provisions of this section, deferred judgment may not be
10 accelerated for any technical violation unless a petition setting
11 forth the grounds for such acceleration is filed by the district
12 attorney with the clerk of the sentencing court and competent
13 evidence justifying the acceleration of the judgment is presented to
14 the court at a hearing to be held for that purpose. The hearing
15 shall be held not more than twenty (20) days after the entry of the
16 plea of not guilty to the petition, unless waived by both the state
17 and the defendant. Any acceleration of a deferred sentence based on
18 a technical violation shall not exceed ninety (90) days for a first
19 acceleration or five (5) years for a second or subsequent
20 acceleration.

21 G. Upon any violation of the deferred judgment, other than a
22 technical violation, the court may enter a judgment of guilt and
23 proceed as provided in Section 991a of this title or may modify any
24 condition imposed. Provided, however, if the deferred judgment is
25

1 for a felony offense, and the defendant commits another felony
2 offense, the defendant shall not be allowed bail pending appeal.

3 H. The deferred judgment procedure described in this section
4 shall apply only to defendants who have not been previously
5 convicted of a felony offense and have not received more than one
6 deferred judgment for a felony offense within the ten (10) years
7 previous to the commission of the pending offense.

8 Provided, the court may waive this prohibition upon written
9 application of the district attorney. Both the application and the
10 waiver shall be made a part of the record of the case.

11 I. The deferred judgment procedure described in this section
12 shall not apply to defendants found guilty or who plead guilty or
13 nolo contendere to a sex offense required by law to register
14 pursuant to the Sex Offenders Registration Act.

15 J. All defendants who are supervised pursuant to this section
16 shall be subject to the sanction process as established in
17 subsection B of Section 991b of this title.

18 K. Notwithstanding subsections F and G of this section, in any
19 proceeding under this section for a person whose deferred sentence
20 was for a violation of Section 2-402 of Title 63 of the Oklahoma
21 Statutes and was entered prior to July 1, 2017, the person shall
22 have his or her underlying judgment and sentence for the violation
23 of Section 2-402 of Title 63 of the Oklahoma Statutes set aside by
24

1 the court and shall be resentenced pursuant to subsection F of
2 Section 982a of this title.

3 SECTION 5. This act shall become effective November 1, 2019.

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STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

HOUSE BILL 2589

By: Echols

AS INTRODUCED

An Act relating to criminal procedure; amending 22 O.S. 2011, Section 926.1, which relates to punishments assessed and declared by juries; directing judge to provide certain instructions to jury; allowing defendant to determine who will assess punishment; establishing sentencing procedures for courts and juries when assessing punishment; repealing 22 O.S. 2011, Section 860.1, which relates to trial procedures for person prosecuted for second and subsequent offense; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2011, Section 926.1, is amended to read as follows:

Section 926.1. A. 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.

1 B. In all cases in which a jury may assess and declare
2 punishment:

3 1. At the conclusion of the evidence, the judge shall instruct
4 the jury on the offense charged. The jury shall be further
5 instructed to determine only the guilt or innocence of the defendant
6 on the offense charged and that punishment shall not be determined
7 by the jury at this time; and

8 2. If the jury reaches a verdict that the defendant is guilty
9 of the offense charged or guilty of a lesser included offense, the
10 defendant may elect to have the judge or jury assess punishment
11 within the limitations fixed by law including sentencing
12 alternatives available to the court or jury pursuant to the
13 provisions of Section 991a, 991a-3 or 991c of this title as
14 applicable to the case.

15 C. If the defendant elects to be sentenced by the judge, the
16 court shall order a presentence investigation and report, unless
17 waived by the defendant, and shall set a date for sentencing of the
18 defendant. The court shall receive aggravating and mitigating
19 evidence and argument on punishment unless waived by the State and
20 the defendant prior to pronouncing the sentence. The court shall
21 assess punishment within the limitations fixed by law including
22 sentencing alternatives available to the court pursuant to the
23 provisions of Section 991a, 991a-3 or 991c of this title as
24 applicable to the case.

1 D. If the defendant elects to have the jury assess punishment,
2 aggravating and mitigating evidence, including evidence of second
3 and subsequent offenses, and argument on punishment shall be
4 received by the jury unless waived by the state and the defendant.
5 The court shall instruct the jury on the law relating to punishment
6 for the offense. Additionally, the court shall instruct the jury on
7 the law relating to second and subsequent offenses and sentencing
8 alternatives available to the jury pursuant to the provisions of
9 Section 991a, 991a-3 or 991c of this title as applicable to the
10 case. The jury may assess and declare in its punishment any such
11 sentencing alternatives available to the court.

12 SECTION 2. REPEALER 22 O.S. 2011, Section 860.1, is
13 hereby repealed.

14 SECTION 3. This act shall become effective November 1, 2019.

16 57-1-7330 GRS 12/28/18

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 2019

By: Albright

6 AS INTRODUCED

7 An Act relating to criminal procedure; directing
8 courts to determine certain status of accused persons
9 when considering pretrial release; authorizing courts
10 to permit pretrial release of certain persons on
11 personal recognizance; permitting courts to impose
12 pretrial release conditions; directing courts to
13 determine financial capabilities and caregiver
14 responsibilities of accused persons who violate
15 pretrial release conditions; making provisions
16 retroactive; authorizing request for modification of
17 bail; defining terms; directing courts to determine
18 certain status of convicted persons prior to
19 sentencing; authorizing courts to impose individually
20 assessed sentences; permitting courts to impose
21 certain conditions; directing courts to determine
22 financial capabilities and caregiver responsibilities
23 of convicted persons who violate conditions of
24 sentence; permitting courts to evaluate and modify
sentencing conditions; making provisions retroactive;
authorizing requests for sentence modification;
defining terms; providing for codification; and
providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1105.4 of Title 22, unless there
is created a duplication in numbering, reads as follows:

1 A. Upon making a pretrial release determination, the court
2 shall inquire about the pregnancy or primary caregiver status of the
3 accused person. If the court determines that the accused person is
4 pregnant or is the primary caregiver and the person does not impose
5 a substantial risk of physical harm to the community, the court
6 shall permit pretrial release on his or her own personal
7 recognizance.

8 B. The court may impose conditions of pretrial release that are
9 the least restrictive and appropriate to caregiver-dependent unity
10 and support.

11 C. The court shall determine the ability of an accused person
12 to contribute financially toward the receipt of services in
13 compliance with any imposed conditions. Inability to pay for
14 conditions set by the court shall not constitute a willful violation
15 of the imposed conditions.

16 D. The court shall consider caregiver responsibilities when
17 determining whether or not an accused person has violated any
18 imposed conditions.

19 E. The provisions of this section shall be retroactive. A
20 pregnant person or primary caregiver currently in pretrial custody
21 may request modification of bail by motion to the court. The court
22 shall thereupon modify bail in accordance with the provisions of
23 this section.

24 F. As used in this section:

1 1. "Accused person" means an individual who has not been
2 convicted of the accusations or charges against him or her; and

3 2. "Primary caregiver" means:

- 4 a. an individual who has consistently assumed
5 responsibility for the housing, health and safety of a
6 child, adult with disabilities, older person and other
7 dependents prior to his or her incarceration or
8 expresses a willingness to assume responsibility for
9 the housing, health and safety of the dependent, or
10 b. a woman who has given birth to a child after or while
11 awaiting pretrial release and expresses a willingness
12 to assume responsibility for the housing, health and
13 safety of her child.

14 A parent who has arranged for the temporary care of a child in the
15 home of a relative or other responsible adult shall not, for that
16 reason, be excluded from this definition.

17 SECTION 2. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 991a-22 of Title 22, unless
19 there is created a duplication in numbering, reads as follows:

20 A. Prior to sentencing a person convicted of an offense, the
21 sentencing court shall determine if the convicted person is pregnant
22 or the primary caregiver. If the court determines that the
23 convicted person is pregnant or the primary caregiver and the
24 offense does not pose a substantial risk of physical harm to the

1 community, the court shall impose an individually assessed sentence,
2 without imprisonment.

3 B. In imposing the individually assessed sentence, the court
4 may require the person to meet certain conditions that are the least
5 restrictive and substantially related to the offense including, but
6 not limited to:

- 7 1. Drug and alcohol treatment;
- 8 2. Domestic violence education and prevention;
- 9 3. Physical and sexual abuse counseling;
- 10 4. Anger management;
- 11 5. Vocational and educational services;
- 12 6. Job training and placement;
- 13 7. Affordable and safe housing assistance;
- 14 8. Financial literacy;
- 15 9. Parenting classes;
- 16 10. Family and individual counseling; and
- 17 11. Family case management services.

18 C. The court shall determine the ability of a convicted person
19 to contribute financially toward the receipt of services in
20 compliance with the conditions listed in subsection B of this
21 section. Inability to pay for conditions set by the court shall not
22 constitute a willful violation of said conditions.

23 D. The court may require the appearance of the person in court
24 during the sentence of the convicted person to evaluate the progress

1 of the person in meeting any of the conditions provided in
2 subsection B of this section. Upon appearance, the court may:

- 3 1. Modify the conditions of the sentence;
- 4 2. Decrease the duration of the sentence; and
- 5 3. Sanction the person for a willful violation of the sentence.

6 E. The court shall consider caregiver responsibilities when
7 determining whether or not a convicted person has violated any
8 imposed conditions.

9 F. The provisions of this section shall be retroactive. A
10 pregnant person or primary caregiver currently sentenced to a period
11 of incarceration may request modification of the sentence by motion
12 to the court. The court shall thereupon modify the sentence in
13 accordance with the provisions of this section.

14 G. As used in this section:

15 1. "Convicted person" means an individual who has been found
16 guilty of an offense; and

17 2. "Primary caregiver" means:

- 18 a. an individual who has consistently assumed
19 responsibility for the housing, health and safety of a
20 child, adult with disabilities, older person and other
21 dependents prior to his or her incarceration or
22 expresses a willingness to assume responsibility for
23 the housing, health and safety of the dependent, or
24

b. a woman who has given birth to a child while awaiting sentencing and expresses a willingness to assume responsibility for the housing, health and safety of her child.

A parent who has arranged for the temporary care of the child in the home of a relative or other responsible adult shall not, for that reason, be excluded from this definition.

SECTION 3. This act shall become effective November 1, 2019.

57-1-7578 GRS 01/08/19

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

HOUSE BILL 1145

By: Bell

AS INTRODUCED

An Act relating to criminal procedure; amending 22 O.S. 2011, Section 18, as last amended by Section 1, Chapter 127, O.S.L. 2018 (22 O.S. Supp. 2018, Section 18), which relates to criminal arrest record expungements; modifying qualifications for certain categories; updating internal citations; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2011, Section 18, as last amended by Section 1, Chapter 127, O.S.L. 2018 (22 O.S. Supp. 2018, Section 18), is amended to read as follows:

Section 18. 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;

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

5 4. The person has received a full pardon on the basis of a
6 written finding by the Governor of actual innocence for the crime
7 for which the claimant was sentenced;

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

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

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

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

7 9. The person was charged with a nonviolent felony offense not
8 listed in Section 571 of Title 57 of the Oklahoma Statutes, the
9 charge was dismissed following the successful completion of a
10 deferred judgment or delayed sentence, the person has never been
11 convicted of a felony, no misdemeanor or felony charges are pending
12 against the person and at least ~~five (5)~~ two (2) years have passed
13 since the charge was dismissed;

14 10. The person was convicted of a misdemeanor offense, the
15 person was sentenced to a fine of less than ~~Five Hundred One Dollars~~
16 ~~(\$501.00)~~ One Thousand One Dollars (\$1,001.00) without a term of
17 imprisonment or a suspended sentence, the fine has been paid or
18 satisfied by time served in lieu of the fine, the person has not
19 been convicted of a felony and no felony or misdemeanor charges are
20 pending against the person;

21 11. ~~The person was convicted of a misdemeanor offense, the~~
22 ~~person was sentenced to a term of imprisonment, a suspended sentence~~
23 ~~or a fine in an amount greater than Five Hundred Dollars (\$500.00),~~
24 ~~the person has not been convicted of a felony, no felony or~~

1 ~~misdemeanor charges are pending against the person and at least five~~
2 ~~(5) years have passed since the end of the last misdemeanor~~
3 ~~sentence;~~

4 ~~12.~~ The person was convicted of a nonviolent felony offense not
5 listed in Section 571 of Title 57 of the Oklahoma Statutes, the
6 person has not been convicted of any other felony or separate
7 misdemeanor in the last ~~seven (7)~~ three (3) years, no felony or
8 misdemeanor charges are pending against the person and at least ~~five~~
9 ~~(5)~~ two (2) years have passed since the completion of the sentence
10 for the felony conviction;

11 ~~13.~~ 12. The person was convicted of not more than two
12 nonviolent felony offenses, not listed in Section 571 of Title 57 of
13 the Oklahoma Statutes, the person has received a full pardon for
14 both of the nonviolent felony offenses, no felony or misdemeanor
15 charges are pending against the person, and at least ~~twenty (20)~~
16 seven (7) years have passed since the last misdemeanor or felony
17 conviction; or

18 ~~14.~~ 13. The person has been charged or arrested or is the
19 subject of an arrest warrant for a crime that was committed by
20 another person who has appropriated or used the person's name or
21 other identification without the person's consent or authorization.

22 B. For purposes of Section 18 et seq. of this title,
23 "expungement" shall mean the sealing of criminal records, as well as
24 any public civil record, involving actions brought by and against

1 the State of Oklahoma arising from the same arrest, transaction or
2 occurrence.

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

7 D. Records expunged pursuant to paragraphs 8, 9, 10, 11, 12, and
8 and 13 ~~and 14~~ of subsection A of this section shall be sealed to the
9 public but not to law enforcement agencies for law enforcement
10 purposes. Records expunged pursuant to paragraphs 8, 9, 10, 11, and
11 12 ~~and 13~~ of subsection A of this section shall be admissible in any
12 subsequent criminal prosecution to prove the existence of a prior
13 conviction or prior deferred judgment without the necessity of a
14 court order requesting the unsealing of the records. Records
15 expunged pursuant to paragraph 4, ~~6,~~ or 12 ~~or 13~~ of subsection A of
16 this section may also include the sealing of Pardon and Parole Board
17 records related to an application for a pardon. Such records shall
18 be sealed to the public but not to the Pardon and Parole Board.

19 SECTION 2. This act shall become effective November 1, 2019.
20

21 57-1-6778 GRS 01/13/19
22
23
24

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

HOUSE BILL 1037

By: Walke

AS INTRODUCED

An Act relating to criminal procedure; amending 22 O.S. 2011, Sections 1101 and 1105, which relate to bailable offenses; modifying list of exceptions that prohibits certain persons from receiving bail; clarifying and deleting conditions considered by the court prior to determining bond or release; providing statutory references; deleting evidentiary requirements considered by the court when determining bond or release of persons arrested for certain drug crimes; amending 22 O.S. 2011, Sections 1105.2, as amended by Section 1, Chapter 59, O.S.L. 2016, 1105.3, as last amended by Section 1, Chapter 2, O.S.L. 2018, 1106, 1108.1, 1109 and 1110 (22 O.S. Supp. 2018, Sections 1105.2 and 1105.3), which relate to the Pretrial Release Act; establishing pretrial procedures for persons arrested with or without a warrant; providing time limitation for initial appearances; directing courts to release persons arrested for certain crimes on his or her own recognizance; providing exceptions; directing courts to set appropriate conditions for persons released on personal recognizance bonds; allowing sheriffs or operators of jails or detention facilities to use pretrial bail schedules; requiring posting of bail schedules in public jail areas; deleting electronic monitoring option as a pretrial release condition; directing pretrial services programs to provide recommendation to the court within certain time frame; providing judicial discretion when considering pretrial release recommendations; directing courts to order the least restrictive pretrial release conditions; providing judicial discretion when determining eligibility for pretrial evaluation; removing electronic monitoring option as a condition to consider for pretrial release; directing

1 submission of written evaluation report within
2 certain time frame; directing pretrial programs to
3 provide different methods and levels of services for
4 pretrial release participants; deleting authorization
5 of certain peace officers to enforce court-ordered
6 conditions of release; modifying quarterly report
7 requirements for pretrial programs; deleting
8 exemption for certain pretrial release programs;
9 clarifying deposit for bail procedure; providing
10 statutory reference for own recognizance indenture
11 contract requirements; deleting certain circumstance
12 that requires better security for bail; extending
13 time limitation for persons to surrender after
14 forfeiture; providing separate bail jumping penalty
15 for persons charged with certain crimes; amending 59
16 O.S. 2011, Sections 1334 and 1335, which relate to
17 bail on personal recognizance and penalties for
18 forfeiture; modifying guidelines for admitting
19 persons to bail on personal recognizance; providing
20 statutory reference; providing gender-neutral
21 language; providing separate bail jumping penalty for
22 persons charged with certain crimes; repealing 22
23 O.S. 2011, Section 1101.1, which relates to bail for
24 prostitution-related offenses; and providing an
effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2011, Section 1101, is
amended to read as follows:

Section 1101. 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~~ or imprison offenders or to perform pretrial services, or

1 by the clerk of the district court or his or her deputy, or by the
2 judge of such courts.

3 B. In criminal cases where the defendant is currently an
4 escaped prisoner from the Department of Corrections, the defendant
5 must be processed back into the Department of Corrections prior to
6 bail being set on new criminal charges.

7 C. All persons shall be bailable by sufficient sureties, except
8 that bail may be denied for:

9 1. Capital offenses ~~when the proof of guilt is evident, or the~~
10 ~~presumption thereof is great;~~

11 2. Violent ~~offenses~~ crime as defined in Section 571 of Title 57
12 of the Oklahoma Statutes;

13 3. Offenses where the maximum sentence may be life imprisonment
14 or life imprisonment without parole;

15 4. Felony offenses where the person charged with the offense
16 has been convicted of two or more felony offenses arising out of
17 different transactions; and

18 5. Controlled dangerous substances offenses where the maximum
19 sentence may be at least ten (10) ~~years~~ years of imprisonment.

20 On all offenses specified in paragraphs ~~2~~ 1 through 5 of this
21 subsection, the proof of guilt must be evident, or the presumption
22 must be great, and ~~it must be on the grounds~~ the court shall make an
23 individualized determination on the record that no condition of
24

1 release would assure the return of the defendant to court or the
2 safety of the community or any person.

3 ~~D. There shall be a rebuttable presumption that no condition of~~
4 ~~release would assure the safety of the community if the state shows~~
5 ~~by clear and convincing evidence that the person was arrested for a~~
6 ~~violation of Section 741 of Title 21 of the Oklahoma Statutes.~~

7 SECTION 2. AMENDATORY 22 O.S. 2011, Section 1105, is
8 amended to read as follows:

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

17 B. No police officer or sheriff may release a person arrested
18 for a violation of an ex parte or final protective order as provided
19 in Sections 60.2 and 60.3 of this title, or arrested for an act
20 constituting domestic abuse as specified in Section 644 of Title 21
21 of the Oklahoma Statutes, or arrested for any act constituting
22 domestic abuse, stalking or harassment as defined by Section 60.1 of
23 this title, or arrested for an act constituting domestic assault and
24 battery or domestic assault and battery with a deadly weapon

1 pursuant to Section 644 of Title 21 of the Oklahoma Statutes,
2 without the violator appearing before a magistrate, judge or court.
3 To the extent that any of the following information is available to
4 the court, the magistrate, judge or court shall consider, in
5 addition to any other circumstances, before determining bond and
6 other conditions of release as necessary for the protection of the
7 alleged victim, the following:

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

10 2. The mental health of the person;

11 3. Whether the person has a history of violating ~~the~~ protective
12 ~~orders of~~ issued by any court ~~or governmental entity;~~

13 4. Whether the person ~~is potentially a~~ poses a specific threat
14 ~~to any other~~ a specific person;

15 5. ~~Whether the person has a history of abusing alcohol or any~~
16 ~~controlled substance;~~

17 ~~6.~~ Whether the person has ~~access to deadly weapons or~~ a history
18 of using deadly weapons;

19 ~~7.~~ 6. The severity of the alleged violence that is the basis of
20 the alleged offense including, but not limited to:

21 a. the duration of the alleged violent incident,

22 b. whether the alleged violent incident involved serious
23 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.~~ 7. 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.~~ 8. 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.~~ 9. Whether the person has expressed suicidal or homicidal ideations; and

~~11.~~ 10. 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

1 magistrate, judge, or court pursuant to Section 1105.2 of this
2 title. In determining bond and other conditions of release, the
3 magistrate, judge, or court shall consider any evidence that the
4 person is in any manner dependent upon a controlled dangerous
5 substance or has a pattern of regular, illegal use of any controlled
6 dangerous substance and may consider the recommendation of a
7 pretrial service provider pursuant to Section 1105.3 of this title.

8 ~~A rebuttable presumption that no conditions of release on bond would~~
9 ~~assure the safety of the community or any person therein shall arise~~
10 ~~if the state shows by clear and convincing evidence:~~

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

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

1 SECTION 3. AMENDATORY 22 O.S. 2011, Section 1105.2, as
2 amended by Section 1, Chapter 59, O.S.L. 2016 (22 O.S. Supp. 2018,
3 Section 1105.2), is amended to read as follows:

4 Section 1105.2 A. Following an arrest for a misdemeanor or
5 felony offense and before formal charges have been filed or an
6 indictment made, the arrested person may have bail set by the court
7 as provided in this act; provided there are no provisions of law to
8 the contrary.

9 B. ~~When formal charges or an indictment has been filed, bail~~
10 ~~shall be set according to law and the pretrial bond, if any, may be~~
11 ~~reaffirmed unless additional security is required.~~ If not otherwise
12 released, the arrested person with or without a warrant shall be
13 taken without unnecessary delay before the nearest and most
14 accessible magistrate in that county for an initial appearance and
15 formal charges shall be filed. In no case shall the delay from
16 arrest to initial appearance be more than forty-eight (48) hours,
17 inclusive of weekends and holidays.

18 C. In cases where the most serious offense with which the
19 arrested person is charged is not a violent crime, as defined in
20 Section 571 of Title 57 of the Oklahoma Statutes, domestic assault
21 and battery as provided in Sections 644, 645 and 647 of Title 21 of
22 the Oklahoma Statutes, violation of a protective order as provided
23 in Section 60.6 of this title, stalking as provided in Section 1173
24 of Title 21 of the Oklahoma Statutes, or felony offenses involving

1 escape or attempt to escape from lawful arrest or confinement as
2 defined in sections 434, 436, 443 or 444 of Title 21 of the Oklahoma
3 Statutes, the court shall release the person pending trial on his or
4 her own recognizance unless the court finds on the record or in
5 writing one or more of the following:

6 1. The person's own recognizance will not reasonably assure the
7 return of the person to court. In making a finding pursuant to this
8 paragraph, the court may consider any prior record of failing to
9 appear for court in the previous two (2) years, or any other pending
10 criminal cases of the arrested person;

11 2. The person will obstruct or attempt to obstruct justice, or
12 threaten, injure or intimidate or attempt to threaten, injure or
13 intimidate a prospective witness or juror; or

14 3. The person will engage in conduct that threatens the safety
15 of himself or herself or of another person.

16 D. In cases where a person is not released on his or her own
17 recognizance pursuant to subsection C of this section, the court
18 shall set appropriate conditions on the personal recognizance bond
19 or shall set reasonable bail. In all cases, the court shall set the
20 least restrictive conditions necessary to reasonably assure the
21 appearance of the person.

22 E. Every judicial district may, upon the order of the presiding
23 judge for the district, establish a pretrial bail schedule for use
24 by the sheriff or other operator of a jail or detention facility to

1 set bail prior to the initial appearance of the person before the
2 court for felony or misdemeanor offenses, ~~except for traffic~~.
3 Traffic offenses included in subsections B, C and D of Section
4 1115.3 of Title 22 of the Oklahoma Statutes and those offenses
5 specifically excluded herein shall not be included. The bail
6 schedule established pursuant to the authority of this act shall
7 exclude any offense for which bail is not allowed by law. The bail
8 schedule authorized by this act shall be set in accordance with
9 guidelines relating to bail and shall be published and reviewed by
10 March 1 of each year by the courts and district attorney of the
11 judicial district. The bail schedule authorized by this section
12 shall be made public and shall be displayed in the public area of
13 the jail or detention facility.

14 ~~C.~~ F. The pretrial bail shall be set in a numerical dollar
15 amount. If the person fails to appear in court as required the
16 judge shall:

17 1. Rescind the bond and proceed to enter a judgment against the
18 defendant for the dollar amount of the pretrial bail if no private
19 bail was given at the time of release; provided, however, the court
20 clerk shall follow the procedures as set forth in Section 1301 et
21 seq. of Title 59 of the Oklahoma Statutes in collecting the
22 forfeiture amount against the person who fails to appear in court;
23 or
24

1 2. Rescind and forfeit the private bail if cash, property or
2 surety bail was furnished at the time of release as set forth in
3 Section 1301 et seq. of Title 59 of the Oklahoma Statutes.

4 ~~D.~~ G. When a pretrial program exists in the judicial district
5 where the person is being held, the judge may utilize the services
6 of the pretrial release program when ordering pretrial release,
7 except when private bail has been furnished.

8 ~~E.~~ H. Upon an order for pretrial release or release on bond,
9 the person shall be released from custody without undue delay.

10 ~~F. The court may require the person to be placed on an~~
11 ~~electronic monitoring device as a condition of pretrial release.~~

12 ~~G. In instances where an electronic monitoring device has been~~
13 ~~ordered, the court may impose payment of a supervision fee. Payment~~
14 ~~of the fee, in whole or according to a court-ordered installment~~
15 ~~schedule, shall be a condition of pretrial release. The court clerk~~
16 ~~shall collect the supervision fees.~~

17 SECTION 4. AMENDATORY 22 O.S. 2011, Section 1105.3, as
18 last amended by Section 1, Chapter 2, O.S.L. 2018 (22 O.S. Supp.
19 2018, Section 1105.3), is amended to read as follows:

20 Section 1105.3 A. Any county pursuant to the provisions of
21 this act may establish and fund a pretrial services program to be
22 utilized by the district court in that jurisdiction.

23 B. When a pretrial ~~release~~ services program is established
24 pursuant to this act ~~and private bail has not been furnished~~, the

1 judge may order a person to be evaluated through the pretrial
2 services program. ~~After~~ Within forty-eight (48) hours of conducting
3 an evaluation ~~of the person applying for pretrial release~~, the
4 pretrial services program shall make a recommendation to the court.
5 The recommendation shall indicate any special supervisory conditions
6 for pretrial release. The judge ~~shall~~ may consider the
7 recommendations and ~~may grant or deny pretrial release~~ shall order
8 the least restrictive conditions that will reasonably assure the
9 return of the person to court. The presiding judge of the judicial
10 district may issue a standing order outlining criteria for cases
11 that may automatically be evaluated for pretrial release by a
12 pretrial program operating in the jurisdiction. The standing order
13 may include amounts for bail and types of bonds deemed appropriate
14 for certain offenses.

15 C. ~~Except as otherwise authorized by the provisions of this~~
16 ~~subsection, persons~~ Persons accused of or detained for any of the
17 following offenses or conditions shall ~~not~~, pursuant to judicial
18 discretion, be eligible for pretrial ~~release~~ evaluation by any
19 pretrial services program:

20 1. Aggravated driving under the influence of an intoxicating
21 substance;

22 2. Any felony driving under the influence of an intoxicating
23 substance;

1 3. Any offense prohibited by the Trafficking In Illegal Drugs
2 Act;

3 4. Any person having a violent felony conviction within the
4 past ten (10) years;

5 5. Appeal bond;

6 6. Arson in the first degree, including attempts to commit
7 arson in the first degree;

8 7. Assault and battery on a police officer;

9 8. Bail jumping;

10 9. Bribery of a public official;

11 10. Burglary in the first or second degree;

12 11. Civil contempt proceedings;

13 12. Distribution of a controlled dangerous substance, including
14 the sale or possession of a controlled dangerous substance with
15 intent to distribute or conspiracy to distribute;

16 13. Domestic abuse, domestic assault or domestic assault and
17 battery with a dangerous weapon, or domestic assault and battery
18 with a deadly weapon;

19 14. Driving under the influence of intoxicating substance where
20 property damage or personal injury occurs;

21 15. Felony discharging a firearm from a vehicle;

22 16. Felony sex offenses;

23 17. Fugitive bond or a governor's fugitive warrant;

24 18. Immigration charges;

- 1 19. Kidnapping;
- 2 20. Juvenile or youthful offender detention;
- 3 21. Manslaughter;
- 4 22. Manufacture of a controlled dangerous substance;
- 5 23. Murder in the first degree, including attempts or
- 6 conspiracy to commit murder in the first degree;
- 7 24. Murder in the second degree, including attempts or
- 8 conspiracy to commit murder in the second degree;
- 9 25. Negligent homicide;
- 10 26. Out-of-county holds;
- 11 27. Persons currently on pretrial release who are arrested on a
- 12 new felony offense;
- 13 28. Possession, manufacture, use, sale or delivery of an
- 14 explosive device;
- 15 29. Possession of a controlled dangerous substance on Schedule
- 16 I or II of the Controlled Dangerous Substances Act;
- 17 30. Possession of a firearm or other offensive weapon during
- 18 the commission of a felony;
- 19 31. Possession of a stolen vehicle;
- 20 32. Rape in the first degree, including attempts to commit rape
- 21 in the first degree;
- 22 33. Rape in the second degree, including attempts to commit
- 23 rape in the second degree;
- 24 34. Robbery by force or fear;

1 35. Robbery with a firearm or dangerous weapon, including
2 attempts to commit robbery with a firearm or dangerous weapon;
3 36. Sexual assault or violent offenses against children;
4 37. Shooting with intent to kill;
5 38. Stalking or violation of a Victim Protection Order;
6 39. Two or more prior felony convictions; or
7 40. Unauthorized use of a motor vehicle.

8 D. A person not eligible for pretrial release pursuant to the
9 provisions of subsection C of this section may be released upon
10 order of a district judge, associate district judge or special judge
11 under conditions prescribed by the judge, ~~which may include an order~~
12 ~~to require the defendant, as a condition of pretrial release, to use~~
13 ~~or participate in any monitoring or testing including, but not~~
14 ~~limited to, a Global Positioning System (GPS) monitoring device and~~
15 ~~urinalysis testing. The court may further order the defendant to~~
16 ~~pay costs and expenses related to any supervision, monitoring or~~
17 ~~testing.~~

18 E. Every pretrial services program operating pursuant to the
19 provisions of this act shall meet the following minimum criteria:

20 1. The program shall establish a procedure for screening and
21 evaluating persons who are detained or have been arrested for the
22 alleged commission of a crime. The program shall obtain criminal
23 history records on detained persons through the National Crime
24 Information Center (NCIC). The information obtained from the

1 ~~screening and~~ evaluation process must be submitted in a written
2 report ~~without unnecessary delay~~ within forty-eight (48) hours to
3 the judge who ~~is assigned to hear pretrial release applications when~~
4 ~~the person is eligible for pretrial release~~ ordered the evaluation;

5 2. The program shall provide reliable information to the judge
6 relating to the person ~~applying for pretrial release~~ so a reasonable
7 decision can be made concerning the ~~amount and type of bail~~
8 nonfinancial conditions appropriate for pretrial release. The
9 information provided shall be based upon facts relating to the
10 person's risk of danger to the community and the risk of failure to
11 appear for court; and

12 3. The program shall make all reasonable attempts to provide
13 the court with information appropriate to each person considered for
14 pretrial release.

15 F. A pretrial services program established pursuant to this act
16 ~~may shall~~ provide different methods and levels of ~~community-based~~
17 ~~supervision to meet any court-ordered conditions of release. The~~
18 ~~program may use existing supervision methods~~ services for persons
19 who are released prior to trial to ensure the appearance of the
20 person for court and to assist with compliance with any nonfinancial
21 pretrial release conditions. ~~Pretrial programs which employ peace~~
22 ~~officers certified by the Council on Law Enforcement Education and~~
23 ~~Training (CLEET) are authorized to enforce court-ordered conditions~~
24 ~~of release.~~

1 G. Each pretrial services program established pursuant to this
2 act shall provide a quarterly report to the presiding judge of the
3 judicial district of the jurisdiction in which it operates. A copy
4 of the report shall be filed of record with the court clerk of the
5 jurisdiction. Each report shall include, but is not limited to, the
6 following information:

7 1. The total number of persons ~~screened~~, evaluated ~~or otherwise~~
8 ~~considered~~ for pretrial release;

9 2. The total number and nature of recommendations made;

10 3. The number of persons admitted to pretrial release that
11 failed to appear; and

12 4. Any other information deemed appropriate by the reporting
13 judicial district or that the program desires to report.

14 ~~H. Every pretrial release program established pursuant to this~~
15 ~~section shall utilize the services of local providers; provided,~~
16 ~~however, any program in continuous existence since July 1, 1999,~~
17 ~~shall be exempt from the provisions of this subsection.~~

18 SECTION 5. AMENDATORY 22 O.S. 2011, Section 1106, is
19 amended to read as follows:

20 Section 1106. A deposit of the sum of money mentioned in ~~the~~
21 any order admitting to bail with financial conditions is equivalent
22 to bail and upon such deposit the defendant must be discharged from
23 custody.

1 SECTION 6. AMENDATORY 22 O.S. 2011, Section 1108.1, is
2 amended to read as follows:

3 Section 1108.1 A. Own recognizance bonds ~~set in a penal amount~~
4 ordered by the court pursuant to subsection C of Section 1105.2 of
5 this title shall be posted by executing an own recognizance
6 indenture contract which shall be executed and maintained by the
7 district court clerk. The indenture shall constitute an inchoate
8 obligation to pay in the event forfeiture proceedings are commenced
9 and result in a final order of forfeiture by the authorizing and
10 issuing judge of the district court.

11 B. Setting aside of forfeitures shall be governed by the same
12 rules and procedures applicable to cash, property or surety bonds,
13 provided that if the forfeiture is set aside, the district court
14 shall exempt from forfeiture set aside all reasonable costs of
15 recovery to return the defendant to custody, and an administrative
16 fee to be retained by the court fund in a sum not to exceed ten
17 percent (10%) of the total penal bond amount plus all costs incurred
18 in processing the forfeiture proceeding to include costs of notices,
19 warrants, service and execution.

20 C. The final judgment of forfeiture shall constitute a judgment
21 enforceable through all procedures available for the collection of a
22 civil judgment, provided that the judgment shall be considered a
23 debt in the nature of defalcation as defined by the United States
24 Bankruptcy Code, and shall not be subject to other forms of debtor

1 relief. The judgment shall be subject to collection as costs in the
2 underlying action regardless of final disposition or determination
3 of guilt.

4 D. The district attorney or the Administrator of the District
5 Court Cost Collection Division as determined by administration order
6 in each judicial district shall initiate the forfeiture action and
7 collection of forfeitures and shall receive one-third (1/3) of all
8 sums collected from the ten percent (10%) premium, not to include
9 costs as defined in subsection B of this section, to offset the
10 costs of administering the program.

11 E. This section does not apply to traffic or wildlife cases.

12 SECTION 7. AMENDATORY 22 O.S. 2011, Section 1109, is
13 amended to read as follows:

14 Section 1109. When proof is made to any court, judge or other
15 magistrate having authority to commit on criminal charges, that a
16 person previously admitted to bail on any such charge is about to
17 abscond, ~~or that his bail is insufficient,~~ or has removed from the
18 state, the judge or magistrate shall require such person to give
19 better security, or for default thereof cause him or her to be
20 committed to prison~~+~~, and an order for his or her arrest may be
21 endorsed on the former commitment, or a new warrant therefor may be
22 issued by such judge or magistrate, setting forth the cause thereof.

23 SECTION 8. AMENDATORY 22 O.S. 2011, Section 1110, is
24 amended to read as follows:

1 Section 1110. Whoever, having been admitted to bail or released
2 on recognizance, bond, or undertaking for appearance before any
3 magistrate or court of the State of Oklahoma, incurs a forfeiture of
4 the bail or violates such undertaking or recognizance and willfully
5 fails to surrender himself or herself within ~~five (5)~~ thirty (30)
6 days following the date of such forfeiture shall, ~~if~~ be subject to
7 the following penalties:

8 1. If the bail was given or the undertaking or recognizance
9 extended in connection with a charge of ~~felony~~ a violent crime, as
10 defined in Section 571 of Title 57 of the Oklahoma Statutes, or
11 pending appeal or certiorari after conviction of any such offense,
12 be guilty of a felony and shall be fined not more than One Thousand
13 Dollars (\$1,000.00) or imprisoned in the custody of the Department
14 of Corrections for not more than one (1) year, or both; or

15 2. If the bail was given or the undertaking or recognizance
16 extended in connection with a charge of a crime other than a violent
17 crime as defined in Section 571 of Title 57 of the Oklahoma Statutes
18 or pending appeal or certiorari after conviction of any such
19 offense, be guilty of a misdemeanor and shall be fined not more than
20 Five Hundred Dollars (500.00) or imprisoned in the custody of the
21 county jail for not more than six (6) months, or both.

22 Nothing in this section shall be construed to interfere with or
23 prevent the exercise by any court of its power to punish for
24 contempt.

1 SECTION 9. AMENDATORY 59 O.S. 2011, Section 1334, is
2 amended to read as follows:

3 Section 1334. A. Any person in custody before a court or
4 magistrate of the State of Oklahoma ~~subject to discretion of the~~
5 ~~court~~ may be admitted to bail on his or her personal recognizance
6 ~~subject to such conditions as the court or magistrate may reasonably~~
7 ~~prescribe to assure his appearance when required~~ in accordance with
8 the requirements of Sections 1101 through 1115.5 of this title.

9 B. When a person is admitted to bail on his or her personal
10 recognizance, the court or magistrate may determine an amount of
11 money, property, or securities which shall be paid or forfeited as a
12 penalty by the defendant for failure to comply with the terms of his
13 or her admission to bail on personal recognizance. This penalty
14 shall be in addition to the penalties provided for in Section 1335
15 of this title.

16 C. Any person admitted to bail as herein provided shall be
17 fully appraised by the court or magistrate of the penalties provided
18 for failure to comply with the terms of his or her recognizance and,
19 upon a failure of compliance, a warrant for the arrest of such
20 person shall be issued forthwith.

21 SECTION 10. AMENDATORY 59 O.S. 2011, Section 1335, is
22 amended to read as follows:

23 Section 1335. Whoever, having been admitted to bail for
24 appearance before any district court in the State of Oklahoma, ~~(1)~~

1 incurs a forfeiture of the bail and willfully fails to surrender
2 himself or herself within thirty (30) days following the date of
3 such forfeiture, or ~~(2)~~ willfully fails to comply with the terms of
4 his or her personal recognizance, shall be subject to the following
5 penalties:

6 1. If the underlying offense for which the defendant was
7 admitted to bail was a violent crime as defined in Section 571 of
8 Title 57 of the Oklahoma Statutes, the defendant shall, upon
9 conviction, be guilty of a felony and shall be fined not more than
10 Five Thousand Dollars (\$5,000.00) or imprisoned in the custody of
11 the Department of Corrections for not more than ~~two (2) years~~ one
12 (1) year, or both; or

13 2. If the underlying offense for which the defendant was
14 admitted to bail was a crime other than a violent crime as defined
15 in Section 571 of Title 57 of the Oklahoma Statutes, the defendant
16 shall, upon conviction, be guilty of a misdemeanor and shall be
17 fined not more than Five Hundred Dollars (\$500.00) or imprisoned in
18 the county jail for not more than six (6) months, or both.

19 SECTION 11. REPEALER 22 O.S. 2011, Section 1101.1, is
20 hereby repealed.

21 SECTION 12. This act shall become effective November 1, 2019.

22
23 57-1-5364 GRS 01/08/19
24

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

HOUSE BILL 1030

By: Burns

AS INTRODUCED

An Act relating to alcoholic beverages; making certain felons eligible for certain license under certain conditions after certain period; prohibiting certain licensing of felons with convictions of certain crimes; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-145A of Title 37A, unless there is created a duplication in numbering, reads as follows:

A. Except as provided in subsection B of this section, a prior felony conviction shall not disqualify an individual from applying for, receiving and renewing an employee license authorized by Section 2-121 of Title 37A of the Oklahoma Statutes if:

1. The person meets all other qualifications and requirements for obtaining and maintaining the license; and

2. The person has not been convicted of any felony within three (3) years of the application date.

1 B. The Alcoholic Beverage Laws Enforcement Commission shall
2 refuse to issue an employee license authorized by Section 2-121 of
3 Title 37A of the Oklahoma Statutes, either on an original
4 application or a renewal application, if it has reasonable grounds
5 to believe and finds the applicant has a prior conviction for any of
6 the following felony offenses:

7 1. An alcohol-related offense;

8 2. A violent crime as defined in Section 142A-1 of Title 21 of
9 the Oklahoma Statutes; or

10 3. A crime which would subject a person to registration
11 pursuant to the Sex Offenders Registration Act.

12 SECTION 2. This act shall become effective November 1, 2019.

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14 57-1-5270 MB 01/06/19
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1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 1019

By: McEntire

6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22
8 O.S. 2011, Section 258, which relates to proceedings
9 for preliminary examinations; clarifying evidentiary
10 requirements for preliminary examinations; deleting
11 discretion of district attorney to determine release
12 of law enforcement reports prior to preliminary
13 hearing; amending 22 O.S. 2011, Section 2002, which
14 relates to the Oklahoma Criminal Discovery Code;
15 eliminating district attorney discretion for certain
16 discovery requests; modifying time limitation for
17 completion of discovery issues; and providing an
18 effective date.

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

16 SECTION 1. AMENDATORY 22 O.S. 2011, Section 258, is
17 amended to read as follows:

18 Section 258. ~~First:~~ A. The witnesses must be examined in the
19 presence of the defendant, and may be cross-examined by ~~him~~ the
20 defendant. On the request of the district attorney, or the
21 defendant, all the testimony must be reduced to writing in the form
22 of questions and answers and signed by the witnesses, or the same
23 may be taken in shorthand and transcribed without signing, and in
24 both cases filed with the clerk of the district court, by the

1 examining magistrate, and may be used as provided in Section 333 of
2 this title. In no case shall the county be liable for the expense
3 in reducing such testimony to writing, unless ordered by the judge
4 of a court of record.

5 ~~Second:~~ B. The district attorney may, on approval of the county
6 judge or the district judge, issue subpoenas in felony cases and
7 call witnesses before ~~him~~ the district attorney and have them sworn
8 and their testimony reduced to writing and signed by the witnesses
9 at the cost of the county. Such examination must be confined to
10 some felony committed against the statutes of the state and triable
11 in that county, and the evidence so taken shall not be receivable in
12 any civil proceeding. A refusal to obey such subpoena or to be
13 sworn or to testify may be punished as a contempt on complaint and
14 showing to the county court, or district court, or the judges
15 thereof that proper cause exists therefor.

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

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

7 ~~Fifth:~~ E. There shall be no preliminary examinations in
8 misdemeanor cases.

9 ~~Sixth:~~ F. A preliminary magistrate shall have the authority to
10 limit the evidence presented at the preliminary hearing to that
11 which is relevant to the issues of: ~~(1) whether~~

12 1. Whether the crime was committed ri; and ~~(2) whether~~

13 2. Whether there is probable cause to believe the defendant
14 committed the crime.

15 Once a showing of probable cause is made, the magistrate shall
16 terminate the preliminary hearing and enter a bindover order;
17 provided, however, that the preliminary hearing shall be terminated
18 only if the state made available ~~for inspection law enforcement~~
19 ~~reports~~ all discovery requested by the defendant within the
20 ~~prosecuting attorney's~~ knowledge or possession of the prosecuting
21 attorney at the time to the defendant five (5) working days prior to
22 the date of the preliminary hearing unless otherwise ordered by the
23 court for good cause shown. ~~The district attorney shall determine~~
24 ~~whether or not to make law enforcement reports available prior to~~

1 ~~the preliminary hearing. If reports are made available, the~~
2 ~~district attorney shall be required to provide those law enforcement~~
3 ~~reports that the district attorney knows to exist at the time of~~
4 ~~providing the reports, but this does not include any physical~~
5 ~~evidence which may exist in the case. This provision does not~~
6 ~~require the district attorney to provide copies for the defendant,~~
7 ~~but only to make them available for inspection by defense counsel.~~
8 In the alternative, upon agreement of the state and the defendant,
9 the court may terminate the preliminary hearing once a showing of
10 probable cause is made.

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

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

1 SECTION 2. AMENDATORY 22 O.S. 2011, Section 2002, is
2 amended to read as follows:

3 Section 2002. A. Disclosure of Evidence by the State.

4 1. Upon request of the defense, the state shall be required to
5 disclose the following:

- 6 a. the names and addresses of witnesses which the state
7 intends to call at trial, together with their
8 relevant, written or recorded statement, if any, or if
9 none, significant summaries of any oral statement,
- 10 b. law enforcement reports made in connection with the
11 particular case,
- 12 c. any written or recorded statements and the substance
13 of any oral statements made by the accused or made by
14 a codefendant,
- 15 d. any reports or statements made by experts in
16 connection with the particular case, including results
17 of physical or mental examinations and of scientific
18 tests, experiments, or comparisons,
- 19 e. any books, papers, documents, photographs, tangible
20 objects, buildings or places which the prosecuting
21 attorney intends to use in the hearing or trial or
22 which were obtained from or belong to the accused,
- 23 f. any record of prior criminal convictions of the
24 defendant, or of any codefendant, and

1 g. Oklahoma State Bureau of Investigation (OSBI) rap
2 sheet/records check on any witness listed by the state
3 or the defense as a witness who will testify at trial,
4 as well as any convictions of any witness revealed
5 through additional record checks if the defense has
6 furnished social security numbers or date of birth for
7 their witnesses, except OSBI rap sheet/record checks
8 shall not provide date of birth, ~~social security~~
9 Social Security number, home phone number or address.

10 2. The state shall provide the defendant any evidence favorable
11 to the defendant if such evidence is material to either guilt or
12 punishment.

13 3. The prosecuting attorney's obligations under this standard
14 extend to:

- 15 a. material and information in the possession or control
16 of members of the prosecutor's staff,
- 17 b. any information in the possession of law enforcement
18 agencies that regularly report to the prosecutor of
19 which the prosecutor should reasonably know, and
- 20 c. any information in the possession of law enforcement
21 agencies who have reported to the prosecutor with
22 reference to the particular case of which the
23 prosecutor should reasonably know.

24 B. Disclosure of Evidence by the Defendant.

1 1. Upon request of the state, the defense shall be required to
2 disclose the following:

- 3 a. the names and addresses of witnesses which the defense
4 intends to call at trial, together with their
5 relevant, written or recorded statement, if any, or if
6 none, significant summaries of any oral statement,
7 b. the name and address of any witness, other than the
8 defendant, who will be called to show that the
9 defendant was not present at the time and place
10 specified in the information or indictment, together
11 with the witness' statement to that fact, and
12 c. the names and addresses of any witness the defendant
13 will call, other than himself, for testimony relating
14 to any mental disease, mental defect, or other
15 condition bearing upon his mental state at the time
16 the offense was allegedly committed, together with the
17 witness' statement of that fact, if the statement is
18 redacted by the court to preclude disclosure of
19 privileged communication.

20 2. A statement filed under subparagraph a, b or c of paragraph
21 1 of subsection A or B of this section is not admissible in evidence
22 at trial. Information obtained as a result of a statement filed
23 under subsection A or B of this section is not admissible in
24

1 evidence at trial except to refute the testimony of a witness whose
2 identity subsection A of this section requires to be disclosed.

3 3. Upon the prosecuting attorney's request after the time set
4 by the court, the defendant shall allow him access at any reasonable
5 times and in any reasonable manner to inspect, photograph, copy, or
6 have reasonable tests made upon any book, paper, document,
7 photograph, or tangible object which is within the defendant's
8 possession or control and which:

9 a. the defendant intends to offer in evidence, except to
10 the extent that it contains any communication of the
11 defendant, or

12 b. is a report or statement as to a physical or mental
13 examination or scientific test or experiment made in
14 connection with the particular case prepared by and
15 relating to the anticipated testimony of a person whom
16 the defendant intends to call as a witness, provided
17 the report or statement is redacted by the court to
18 preclude disclosure of privileged communication.

19 C. Continuing Duty to Disclose.

20 If, prior to or during trial, a party discovers additional
21 evidence or material previously requested or ordered, which is
22 subject to discovery or inspection under the Oklahoma Criminal
23 Discovery Code, such party shall promptly notify the other party,
24

1 the attorney of the other party, or the court of the existence of
2 the additional evidence or material.

3 D. Time of Discovery.

4 Motions for discovery may be made at the time of the district
5 court arraignment or thereafter; ~~provided that requests for police~~
6 ~~reports may be made subject to the provisions of Section 258 of this~~
7 ~~title. However, a request pursuant to Section 258 of this title~~
8 ~~shall be subject to the discretion of the district attorney.~~ All
9 issues relating to discovery, except as otherwise provided, will be
10 completed ~~at least ten (10) days prior to trial~~ within twenty (20)
11 days of receiving a request. The court may specify the time, place
12 and manner of making the discovery and may prescribe such terms and
13 conditions as are just.

14 E. Regulation of Discovery.

15 1. Protective and Modifying Orders. Upon motion of the state
16 or defendant, the court may at any time order that specified
17 disclosures be restricted, or make any other protective order. If
18 the court enters an order restricting specified disclosures, the
19 entire text of the material restricted shall be sealed and preserved
20 in the records of the court to be made available to the appellate
21 court in the event of an appeal.

22 2. Failure to Comply with a Request. If at any time during the
23 course of the proceedings it is brought to the attention of the
24 court that a party has failed to comply with this rule, the court

1 may order such party to permit the discovery or inspection, grant
2 continuance, or prohibit the party from introducing evidence not
3 disclosed, or it may enter such other order as it deems just under
4 the circumstances.

5 3. The discovery order shall not include discovery of legal
6 work product of either attorney which is deemed to include legal
7 research or those portions of records, correspondence, reports, or
8 memoranda which are only the opinions, theories, or conclusions of
9 the attorney or the attorney's legal staff.

10 F. Reasonable cost of copying, duplicating, videotaping,
11 developing or any other cost associated with this Code for items
12 requested shall be paid by the party so requesting; however, any
13 item which was obtained from the defendant by the state of which
14 copies are requested by the defendant shall be paid by the state.
15 Provided, if the court determines the defendant is indigent and
16 without funds to pay the cost of reproduction of the required items,
17 the cost shall be paid by the Indigent Defender System, unless
18 otherwise provided by law.

19 SECTION 3. This act shall become effective November 1, 2019.
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21 57-1-5436 GRS 01/07/19
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STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

HOUSE BILL 1001

By: Olsen

AS INTRODUCED

An Act relating to firearms; amending 21 O.S. 2011, Section 1283, as last amended by Section 1, Chapter 179, O.S.L. 2014 (21 O.S. Supp. 2018, Section 1283), which relates to possession of firearms by felons and delinquents; removing vehicle passenger restriction; modifying list of prohibited weapons; deleting definition; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2011, Section 1283, as last amended by Section 1, Chapter 179, O.S.L. 2014 (21 O.S. Supp. 2018, Section 1283), is amended to read as follows:

Section 1283.

CONVICTED FELONS AND DELINQUENTS

A. Except as provided in subsection B of this section, it shall be unlawful for any person convicted of any felony in any court of this state or of another state or of the United States to have in his or her possession or under his or her immediate control, or in any vehicle which the person is operating, ~~or in which the person is riding as a passenger,~~ or at the residence where the convicted

1 person resides, any pistol, imitation or homemade pistol, altered
2 air or toy pistol, ~~machine gun, sawed-off shotgun or rifle,~~ or any
3 other dangerous or deadly firearm.

4 B. Any person who has previously been convicted of a nonviolent
5 felony in any court of this state or of another state or of the
6 United States, and who has received a full and complete pardon from
7 the proper authority and has not been convicted of any other felony
8 offense which has not been pardoned, shall have restored the right
9 to possess any firearm or other weapon prohibited by subsection A of
10 this section, the right to apply for and carry a handgun, concealed
11 or unconcealed, pursuant to the Oklahoma Self-Defense Act and the
12 right to perform the duties of a peace officer, gunsmith, or for
13 firearms repair.

14 C. It shall be unlawful for any person serving a term of
15 probation for any felony in any court of this state or of another
16 state or of the United States or under the jurisdiction of any
17 alternative court program to have in his or her possession or under
18 his or her immediate control, or at his or her residence, or in any
19 ~~passenger~~ vehicle which the person is operating ~~or is riding as a~~
20 ~~passenger,~~ any pistol, ~~shotgun or rifle, including any~~ imitation or
21 homemade pistol, altered air or toy pistol, ~~shotgun or rifle,~~ or any
22 other dangerous or deadly firearm while such person is subject to
23 supervision, probation, parole or inmate status.

1 D. It shall be unlawful for any person previously adjudicated
2 as a delinquent child or a youthful offender for the commission of
3 an offense, which would have constituted a felony offense if
4 committed by an adult, to have in the possession of the person or
5 under the immediate control of the person, or have in any vehicle
6 which he or she is driving ~~or in which the person is riding as a~~
7 ~~passenger~~, or at the residence of the person, any pistol, imitation
8 or homemade pistol, altered air or toy pistol, ~~machine gun, sawed-~~
9 ~~off shotgun or rifle~~, or any other dangerous or deadly firearm
10 within ten (10) years after such adjudication; provided, that
11 nothing in this subsection shall be construed to prohibit the
12 placement of the person in a home with a full-time duly appointed
13 peace officer who is certified by the Council on Law Enforcement
14 Education and Training (CLEET) pursuant to the provisions of Section
15 3311 of Title 70 of the Oklahoma Statutes.

16 E. Any person having been issued a handgun license pursuant to
17 the provisions of the Oklahoma Self-Defense Act and who thereafter
18 knowingly or intentionally allows a convicted felon or adjudicated
19 delinquent or a youthful offender as prohibited by the provisions of
20 subsection A, C, or D of this section to possess or have control of
21 any pistol authorized by the Oklahoma Self-Defense Act shall, upon
22 conviction, be guilty of a felony punishable by a fine not to exceed
23 Five Thousand Dollars (\$5,000.00). In addition, the person shall
24 have the handgun license revoked by the Oklahoma State Bureau of

1 Investigation after a hearing and determination that the person has
2 violated the provisions of this section.

3 F. Any convicted or adjudicated person violating the provisions
4 of this section shall, upon conviction, be guilty of a felony
5 punishable as provided in Section 1284 of this title.

6 G. ~~For purposes of this section, "sawed-off shotgun or rifle"~~
7 ~~shall mean any shotgun or rifle which has been shortened to any~~
8 ~~length.~~

9 ~~H.~~ For purposes of this section, "altered toy pistol" shall
10 mean any toy weapon which has been altered from its original
11 manufactured state to resemble a real weapon.

12 ~~I.~~ H. For purposes of this section, "altered air pistol" shall
13 mean any air pistol manufactured to propel projectiles by air
14 pressure which has been altered from its original manufactured
15 state.

16 ~~J.~~ I. For purposes of this section, "alternative court program"
17 shall mean any drug court, Anna McBride or mental health court, DUI
18 court or veterans court.

19 SECTION 2. This act shall become effective November 1, 2019.
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21 57-1-5200 GRS 12/13/18
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