An Act

ENROLLED HOUSE
BILL NO. 3052

By: Steele, Roberts (Sean), Billy, Denney, McCullough, Scott, Walker, Cooksey, McDaniel (Jeannie), Sherrer, Tibbs and Hickman of the House

and

Bingman of the Senate

An Act relating to corrections; requiring certain persons to participate in an assessment and evaluation; providing access to assessment results; directing use of assessment results for sentencing options; amending 22 O.S. 2011, Section 471.2, which relates to the Oklahoma Drug Court Act; providing for the use of intermediate revocation facilities; amending 22 O.S. 2011, Section 982a, which relates to judicial reviews; increasing time limitation for requesting sentence modification; requiring approval by the district attorney under certain circumstances; requiring mandatory term of post-imprisonment supervision; establishing time limitation for post-imprisonment supervision; prohibiting reduction of confinement; providing exception to post-imprisonment supervision requirement; authorizing certain confinement for noncompliance; clarifying authority of the state for the commission of certain crimes; amending 22 O.S. 2011, Section 991b, which relates to revocation proceedings; modifying intermediate sanctions process; amending 57 O.S. 2011, Section 138, which relates to earned credit eligibility requirements; prohibiting certain persons from accumulating earned credits; amending 57 O.S. 2011, Sections 502 and 517, which relate to the Oklahoma Corrections Act of 1967; defining terms; modifying circumstances that allow the revocation of probation; providing procedures for intermediate revocation

facility placement; stating authorization for district attorney to initiate revocation proceedings; authorizing the Department of Corrections to establish intermediate revocation facilities for certain persons; establishing time limitation for confinement in facility; prohibiting offenders from receiving earned credits; amending 63 O.S. 2011, Section 2-402, which relates to the Uniform Controlled Dangerous Substances Act; modifying penalties for certain crimes; creating the Justice Reinvestment Grant Program; authorizing the Attorney General to award competitive grants to local law enforcement agencies; directing use of funds; providing eligibility requirements; directing the Attorney General to publish guidelines and application; authorizing the Attorney General to adopt rules and procedures; providing authority to the Office of the Attorney General to collect certain information; making data and information collected confidential; prohibiting disclosure of identifying information; directing certain entities to submit specified information to the Attorney General; directing the Attorney General to include certain information in report; directing the Attorney General to provide copy of report to certain persons; providing for codification; and providing an effective date.

SUBJECT: Corrections

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 210 of Title 22, unless there is created a duplication in numbering, reads as follows:

Any person found guilty of a felony offense shall, prior to sentencing, be required to submit to an approved risk, mental health and substance abuse assessment and evaluation which shall be administered and scored by assessment personnel certified by the Department of Mental Health and Substance Abuse Services. Any person lacking sufficient skills to comprehend or otherwise participate in the risk, mental health and substance abuse

assessment and evaluation shall have appropriate assistance. The court, district attorney, arrested person and counsel for the arrested person shall have access to the results of the risk, mental health and substance abuse assessment and evaluation. The results of the risk, mental health and substance abuse assessment and evaluation shall not be admissible as evidence in the criminal case unless specifically waived by the defendant or for purposes of determining sentencing options for a defendant who has pled guilty and punishment is to be determined at the discretion of the court. The court and the district attorney shall consider the results of the risk, mental health and substance abuse assessment and evaluation to determine sentencing options for the person.

SECTION 2. AMENDATORY 22 O.S. 2011, Section 471.2, is amended to read as follows:

Section 471.2 A. The initial opportunity for review of an offender for a drug court program shall occur within four (4) days after the arrest and detention or incarceration of the offender in the city or county jail, or if an immediate bond release program is available through the jail, the initial opportunity for review shall occur in conjunction with the bond release program. When a drug court is established, the following information shall be initially reviewed by the sheriff or designee, if the offender is held in a county jail, or by the chief of police or designee, if the offender is held in a city jail:

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

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

3. The offender's arrest or charge does not involve a violation of the Trafficking In Illegal Drugs Act, Section 2-414 et seq. of Title 63 of the Oklahoma Statutes;

4. The offender has committed a felony offense; and

5. The offender:

a. admits to having a substance abuse addiction,

b. appears to have a substance abuse addiction,

c. is known to have a substance abuse addiction, or

d. the arrest or charge is based upon an offense eligible for the drug court program.

B. If it appears to the reviewing officer that the offender may be potentially eligible for the drug court program based upon a review of the information in subsection A of this section, the offender shall be given an eligibility form which may be voluntarily completed by the offender, and the reviewing officer shall file the criminal case record within the time prescribed in subsection E of Section ~~2~~ 471.1 of this ~~act~~ title. The offender shall not automatically be considered for the program based upon this review. The offender must request consideration for the drug court program as provided in subsection C of this section and shall have approval from the district attorney before being considered for the drug court program. The eligibility form shall describe the drug court program for which the offender may be eligible, including, but not limited to:

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

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

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

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

5. A clear statement that the plea agreement will specify the offense to which the guilty plea will be entered and will state any

penalty to be imposed for the offense, both in the event of a successful completion of the drug court program, and in the event of a failure to complete the program;

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

a. waive the right to a speedy trial,

b. waive the right to a preliminary hearing,

c. the terms and conditions of a treatment plan, and

d. sign a performance contract with the court;

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

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

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

a. fail to comply with the terms of the agreements,

b. be convicted of a misdemeanor offense which reflects a propensity for violence,

c. be arrested for a violent felony offense, or

d. be convicted of any felony offense,

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

~~9.~~ 10. An explanation of the criminal record retention and disposition resulting from participation in the drug court program following successful completion of the program.

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

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

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

2. Any offender desiring legal consultation prior to signing or completing the form for consideration in a drug court program shall be referred to the defense attorney of the drug court team, or a public defender, if the offender is indigent, or allowed to consult with private legal counsel.

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

D. When an offender has filed a voluntary request to be considered for a drug court program on the appropriate form, the district attorney shall indicate his or her approval of the request by filing the form with the drug court judge. Upon the filing of the request form by the district attorney, an initial hearing shall be set before the drug court judge. The hearing shall be not less

than three (3) work days nor more than five (5) work days after the date of the filing of the request form. Notice of the hearing shall be given to the drug court team, or in the event no drug court team is designated, to the offender, the district attorney, and to the public defender. The offender shall be required to notify any private legal counsel of the date and time of the hearing.

SECTION 3. AMENDATORY 22 O.S. 2011, Section 982a, is amended to read as follows:

Section 982a. A. Any time within ~~twelve (12)~~ twenty-four (24) months after ~~a~~ the initial sentence is imposed or within ~~twelve (12)~~ twenty-four (24) months after probation has been revoked, the court imposing sentence or revocation of probation may modify such sentence or revocation by directing that another sentence be imposed, if the court is satisfied that the best interests of the public will not be jeopardized; provided, however, the court shall not impose a deferred sentence. Any application for sentence modification that is filed and ruled upon beyond twelve (12) months of the initial sentence being imposed must be approved by the district attorney who shall provide written notice to any victims in the case which is being considered for modification. This section shall not apply to convicted felons who have been in confinement in any state or federal prison system for any previous felony conviction during the ten-year period preceding the date that the sentence this section applies to was imposed. Further, without the consent of the district attorney, this section shall not apply to sentences imposed pursuant to a plea agreement or jury verdict.

B. For purposes of judicial review, upon court order or written request from the sentencing judge, the Department of Corrections shall provide the court imposing sentence or revocation of probation with a report to include a summary of the offender's assessed needs, any progress made by the offender in addressing his or her assessed needs, and any other information the Department can supply on the inmate. The court shall consider such reports when modifying the sentence or revocation of probation. The court shall allow the Department of Corrections at least twenty (20) days after receipt of a request or order from the court to prepare the required reports.

C. If the court considers modification of the sentence or revocation of probation, a hearing shall be made in open court after receipt of the reports required in subsection B of this section. The clerk of the court imposing sentence or revocation of probation shall give notice of the judicial review hearing to the Department

of Corrections, the inmate, the inmate's legal counsel, and the district attorney of the county in which the inmate was convicted upon receipt of the reports. Such notice shall be mailed at least twenty-one (21) days prior to the hearing date and shall include a copy of the report and any other written information to be considered at the judicial review hearing.

D. If an appeal is taken from the original sentence or from a revocation of probation which results in a modification of the sentence or modification to the revocation of probation of the defendant, such sentence may be further modified in the manner ~~hereinbefore~~ described in subsection A of this section within ~~twelve (12)~~ twenty-four (24) months after the receipt by the clerk of the district court of the mandate from the Supreme Court or the Court of Criminal Appeals.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 991a-21 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. For persons convicted and sentenced on or after November 1, 2012, the court shall include in the sentence of any person who is convicted of a felony and sentenced to a term of confinement with the Department of Corrections, as provided in Section 991a of Title 22 of the Oklahoma Statutes or any other provision of the Oklahoma Statutes, a term of post-imprisonment supervision. The post-imprisonment supervision shall be for a period of not less than nine (9) months nor more than one (1) year following confinement of the person and shall be served under conditions prescribed by the Department of Corrections. In no event shall the post-imprisonment supervision be a reason to reduce the term of confinement for a person.

B. The court shall not include a term of post-imprisonment supervision for any person who has been sentenced to life without parole.

C. Should the offender fail to comply with the terms of post-imprisonment supervision, the offender may be sanctioned to serve a term of confinement of six (6) months in an intermediate revocation facility.

D. Nothing in this section shall prevent the state from revoking, in whole or in part, the post-imprisonment supervision,

probation or parole of a person for committing any misdemeanor or felony while under such supervision, probation or parole.

SECTION 5. AMENDATORY 22 O.S. 2011, Section 991b, is amended to read as follows:

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

B. 1. The Department of Corrections shall develop a matrix of technical violations and sanctions to address ~~the~~ violations committed by persons who are being supervised by the Department. The Department shall be authorized to use a violation response and intermediate sanction process based on the sanction matrix to apply to any technical violations of probationers. Within four (4) working days of the discovery of the violation, the probation officer shall initiate the violation response and intermediate sanction process. The sentencing judge may authorize any recommended sanctions, which may include, but are not limited to: short-term jail or lockup, day treatment, program attendance, community service, outpatient or inpatient treatment, monetary fines, curfews, ~~or~~ ignition interlock devices on vehicles, or a one-time referral to a term of confinement of six (6) months in an intermediate revocation facility operated by the Department of Corrections; provided, upon approval of the district attorney, a person may be sanctioned to serve additional terms of confinement in an intermediate revocation facility. The probation officer shall complete a sanction form, which shall specify the technical violation, sanction, and the action plan to correct the noncompliant behavior resulting in the technical violation. The probation officer shall refer to the sanctioning matrix to determine the supervision, treatment, and sanctions appropriate to address the noncompliant behavior. The probation officer shall refer the violation information and recommended response with a sanction plan

to the Department of Corrections to be heard by a hearing officer. The Department of Corrections shall develop a sanction matrix, forms, policies and procedures necessary to implement this provision. The Department of Corrections shall establish procedures to hear responses to technical violations and review sanction plans including the following:

a. hearing officers shall report through a chain of command separate from that of the supervising probation officers,

b. the Department shall provide the offender written notice of the violation, the evidence relied upon, and the reason the sanction was imposed,

c. the hearing shall be held unless the offender waives the right to the hearing,

d. hearings shall be electronically recorded, and

e. the Department shall ~~make available~~ provide to judges and district attorneys a record of all violations and actions taken pursuant to this subsection.

2. The hearing officer shall determine based on a preponderance of the evidence whether a technical violation occurred. Upon a finding that a technical violation occurred, the hearing officer may order the offender to participate in the recommended sanction plan or may modify the plan. Offenders who accept the sanction plan shall sign a violation response sanction form, and the hearing officer shall then impose the sanction. Failure of the offender to comply with the imposed sanction plan shall constitute a violation of the rules and conditions of supervision that may result in a revocation proceeding. If an offender does not voluntarily accept the recommended sanction plan, the Department shall either impose the sanction and allow the offender to appeal to the district court, or request a revocation proceeding as provided by law. Every administrative hearing and sanction imposed by the Department shall be appealable to the district court.

C. 1. Where one of the grounds for revocation is the failure of the defendant to make restitution as ordered, the Department of Corrections shall forward to the district attorney all information pertaining to the failure of the defendant to make timely

restitution as ordered by the court, and the district attorney shall file a petition setting forth the grounds for revocation.

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

3. At the hearing, if one of the grounds for the petition for revocation is the failure of the defendant to make timely restitution as ordered by the court, the court will hear evidence and if it appears to the satisfaction of the court from such evidence that the terms of the order of restitution create a manifest hardship on the defendant or the immediate family of the defendant, the court may cancel all or any part of the amount still due, or modify the terms or method of payment.

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

SECTION 6. AMENDATORY 57 O.S. 2011, Section 138, is amended to read as follows:

Section 138. A. Except as otherwise provided by law, every inmate of a state correctional institution shall have their term of imprisonment reduced monthly, based upon the class level to which they are assigned. Earned credits may be subtracted from the total credits accumulated by an inmate, upon recommendation of the institution's disciplinary committee, following due process, and upon approval of the warden or superintendent. Each earned credit is equivalent to one (1) day of incarceration. Lost credits may be restored by the warden or superintendent upon approval of the

classification committee. If a maximum and minimum term of imprisonment is imposed, the provisions of this subsection shall apply only to the maximum term. No deductions shall be credited to any inmate serving a sentence of life imprisonment; however, a complete record of the inmate's participation in work, school, vocational training, or other approved program shall be maintained by the Department for consideration by the paroling authority. No earned credit deductions shall be credited or recorded for any inmate serving any sentence for a criminal act which resulted in the death of a police officer, a law enforcement officer, an employee of the Department of Corrections, or an employee of a private prison contractor and the death occurred while the police officer, law enforcement officer, employee of the Department of Corrections, or employee of a private prison contractor was acting within the scope of their employment. No earned credit deductions shall be credited or recorded for any person who is referred to an intermediate revocation facility for violating any of the terms and conditions of probation.

B. The Department of Corrections is directed to develop a written policy and procedure whereby inmates shall be assigned to one of four class levels determined by an adjustment review committee of the facility to which the inmate is assigned. The policies and procedures developed by the Department shall include, but not be limited to, written guidelines pertaining to awarding credits for rehabilitation, obtaining job skills and educational enhancement, participation in and completion of alcohol/chemical abuse programs, incentives for inmates to accept work assignments and jobs, work attendance and productivity, conduct record, participation in programs, cooperative general behavior, and appearance. When assigning inmates to a class level the adjustment review committee shall consider all aspects of the policy and procedure developed by the Department including but not limited to, the criteria for awarding credits required by this subsection.

C. If an inmate is subject to misconduct, nonperformance or disciplinary action, earned credits may be removed according to the policies and procedures developed by the Department. Earned credits removed for misconduct, nonperformance or disciplinary action may be restored as provided by Department policy, if any.

D. 1. Class levels shall be as follows:

a. Class level 1 shall include inmates not eligible to participate in class levels 2 through 4, and shall

include, but not be limited to, inmates on escape status.

b. Class level 2 shall include an inmate who has been given a work, education, or program assignment, has received a good evaluation for participation in the work, education, or program assignment, and has received a good evaluation for personal hygiene and maintenance of living area.

c. Class level 3 shall include an inmate who has been incarcerated at least three (3) months, has received an excellent work, education, or program evaluation, and has received an excellent evaluation for personal hygiene and maintenance of living area.

d. Class level 4 shall include an inmate who has been incarcerated at least eight (8) months, has received an outstanding work, education, or program evaluation, and has received an outstanding evaluation for personal hygiene and maintenance of living area.

2. a. Until November 1, 2001, class level corresponding credits are as follows:

Class 1 - 0 Credits per month;

Class 2 - 22 Credits per month;

Class 3 - 33 Credits per month;

Class 4 - 44 Credits per month.

b. Class level corresponding credits beginning November 1, 2001, for inmates who have ever been convicted as an adult or a youthful offender or adjudicated delinquent as a juvenile for a felony offense enumerated in subsection E of this section are as follows:

Class 1 - 0 Credits per month;

Class 2 - 22 Credits per month;

Class 3 - 33 Credits per month;

Class 4 - 44 Credits per month.

c. Class level corresponding credits beginning November 1, 2001, for inmates who have never been convicted as an adult or a youthful offender or adjudicated delinquent as a juvenile for a felony offense enumerated in subsection E of this section are as follows:

Class 1 - 0 Credits per month;

Class 2 - 22 Credits per month;

Class 3 - 45 Credits per month;

Class 4 - 60 Credits per month.

Each inmate shall receive the above specified monthly credits for the class to which he or she is assigned. In determining the prior criminal history of the inmate, the Department of Corrections shall review criminal history records available through the Oklahoma State Bureau of Investigation, Federal Bureau of Investigation, and National Crime Information Center to determine the reported felony convictions of all inmates. The Department of Corrections shall also review the Office of Juvenile Affairs Juvenile On-line Tracking System for inmates who were adjudicated delinquent or convicted as a youthful offender for a crime that would be an offense enumerated in subsection E of this section.

3. In addition to the criteria established for each class in paragraph 1 of this subsection, the following requirements shall apply to each of levels 2 through 4:

a. satisfactory participation in the work, education, or program assignment at the standard required for the particular class level;

b. maintenance of a clean and orderly living area and personal hygiene at the standard required for the particular class level;

c. cooperative behavior toward facility staff and other inmates;

d. satisfactory participation in the requirements of the previous class level.

4. The evaluation scale for assessing performance shall be as follows:

a. Outstanding - For inmates who display consistently exceptional initiative, motivation, and work habits~~.~~,

b. Excellent - For inmates who display above-average work habits with only minor errors and rarely perform below expectations.

c. Good - For inmates who perform in a satisfactory manner and complete tasks as required, doing what is expected, with only occasional performance above or below expectations.

d. Fair - For inmates who may perform satisfactorily for some periods of time, but whose performance is marked by obviously deficient and weak areas and could be improved.

e. Poor - For inmates whose performance is unsatisfactory and falls below expected and acceptable standards.

E. No person ever convicted as an adult or a youthful offender or adjudicated delinquent as a juvenile in this state for any felony offense enumerated in this subsection or a similar felony offense pursuant to the provisions of another state, the United States, or a military court shall be eligible for the credits provided by the provisions of subparagraph c of paragraph 2 of subsection D of this section.

1. Assault, battery, or assault and battery with a dangerous weapon as defined by Section 645, or subsection C of Section 652 of Title 21 or Section 2-219 of Title 43A of the Oklahoma Statutes;

2. Aggravated assault and battery on a police officer, sheriff, highway patrolman, or any other officer of the law as defined by Section 650, subsection C of Section 650.2, 650.5, subsection B of Section 650.6, or subsection C of Section 650.7 of Title 21 of the Oklahoma Statutes;

3. Poisoning with intent to kill as defined by Section 651 of Title 21 of the Oklahoma Statutes;

4. Shooting with intent to kill as defined by Section 652 of Title 21 of the Oklahoma Statutes;

5. Assault with intent to kill as defined by Section 653 of Title 21 of the Oklahoma Statutes;

6. Assault with intent to commit a felony as defined by Section 681 of Title 21 of the Oklahoma Statutes;

7. Assaults while masked or disguised as defined by Section 1303 of Title 21 of the Oklahoma Statutes;

8. Entering premises of another while masked as defined by Section 1302 of Title 21 of the Oklahoma Statutes;

9. Murder in the first degree as defined by Section 701.7 of Title 21 of the Oklahoma Statutes;

10. Solicitation for Murder in the first degree as defined by Section 701.16 of Title 21 of the Oklahoma Statutes;

11. Murder in the second degree as defined by Section 701.8 of Title 21 of the Oklahoma Statutes;

12. Manslaughter in the first degree as defined by Section 711, 712 or 714 of Title 21 of the Oklahoma Statutes;

13. Manslaughter in the second degree as defined by Section 716 or 717 of Title 21 of the Oklahoma Statutes;

14. Kidnapping as defined by Section 741 of Title 21 of the Oklahoma Statutes;

15. Burglary in the first degree as defined by Section 1431 of Title 21 of the Oklahoma Statutes;

16. Burglary with explosives as defined by Section 1441 of Title 21 of the Oklahoma Statutes;

17. Kidnapping for extortion as defined by Section 745 of Title 21 of the Oklahoma Statutes;

18. Maiming as defined by Section 751 of Title 21 of the Oklahoma Statutes;

19. Robbery as defined by Section 791 of Title 21 of the Oklahoma Statutes;

20. Robbery in the first degree as defined by Section 797 of Title 21 of the Oklahoma Statutes;

21. Robbery in the second degree as defined by Section 797 of Title 21 of the Oklahoma Statutes;

22. Armed robbery as defined by Section 801 of Title 21 of the Oklahoma Statutes;

23. Robbery by two (2) or more persons as defined by Section 800 of Title 21 of the Oklahoma Statutes;

24. Robbery with dangerous weapon or imitation firearm as defined by Section 801 of Title 21 of the Oklahoma Statutes;

25. Any crime against a child provided for in Section 843.5 of Title 21 of the Oklahoma Statutes;

26. Wiring any equipment, vehicle or structure with explosives as defined by Section 849 of Title 21 of the Oklahoma Statutes;

27. Forcible sodomy as defined by Section 888 of Title 21 of the Oklahoma Statutes;

28. Rape in the first degree as defined by Sections 1111 and 1114 of Title 21 of the Oklahoma Statutes;

29. Rape in the second degree as defined by Sections 1111 and 1114 of Title 21 of the Oklahoma Statutes;

30. Rape by instrumentation as defined by Section 1111.1 of Title 21 of the Oklahoma Statutes;

31. Lewd or indecent proposition or lewd or indecent act with a child as defined by Section 1123 of Title 21 of the Oklahoma Statutes;

32. Sexual battery of a person over 16 as defined by Section 1123 of Title 21 of the Oklahoma Statutes;

33. Use of a firearm or offensive weapon to commit or attempt to commit a felony as defined by Section 1287 of Title 21 of the Oklahoma Statutes;

34. Pointing firearms as defined by Section 1289.16 of Title 21 of the Oklahoma Statutes;

35. Rioting as defined by Section 1311 or 1321.8 of Title 21 of the Oklahoma Statutes;

36. Inciting to riot as defined by Section 1320.2 of Title 21 of the Oklahoma Statutes;

37. Arson in the first degree as defined by Section 1401 of Title 21 of the Oklahoma Statutes;

38. Endangering human life during arson as defined by Section 1405 of Title 21 of the Oklahoma Statutes;

39. Injuring or burning public buildings as defined by Section 349 of Title 21 of the Oklahoma Statutes;

40. Sabotage as defined by Section 1262, 1265.4 or 1265.5 of Title 21 of the Oklahoma Statutes;

41. Extortion as defined by Section 1481 or 1486 of Title 21 of the Oklahoma Statutes;

42. Obtaining signature by extortion as defined by Section 1485 of Title 21 of the Oklahoma Statutes;

43. Seizure of a bus, discharging firearm or hurling missile at bus as defined by Section 1903 of Title 21 of the Oklahoma Statutes;

44. Mistreatment of a vulnerable adult as defined by Section 843.1 of Title 21 of the Oklahoma Statutes;

45. Sex offender providing services to a child as defined by Section 404.1 of Title 10 of the Oklahoma Statutes;

46. A felony offense of domestic abuse as defined by subsection C of Section 644 of Title 21 of the Oklahoma Statutes;

47. Prisoner placing body fluid on government employee as defined by Section 650.9 of Title 21 of the Oklahoma Statutes;

48. Poisoning food or water supply as defined by Section 832 of Title 21 of the Oklahoma Statutes;

49. Trafficking in children as defined by Section 866 of Title 21 of the Oklahoma Statutes;

50. Incest as defined by Section 885 of Title 21 of the Oklahoma Statutes;

51. Procure, produce, distribute, or possess juvenile pornography as defined by Section 1021.2 of Title 21 of the Oklahoma Statutes;

52. Parental consent to juvenile pornography as defined by Section 1021.3 of Title 21 of the Oklahoma Statutes;

53. Soliciting minor for indecent exposure as defined by Section 1021 of Title 21 of the Oklahoma Statutes;

54. Distributing obscene material or child pornography as defined by Section 1040.13 of Title 21 of the Oklahoma Statutes;

55. Child prostitution as defined by Section 1030 of Title 21 of the Oklahoma Statutes;

56. Procuring a minor for prostitution or other lewd acts as defined by Section 1087 of Title 21 of the Oklahoma Statutes;

57. Transporting a child under 18 for purposes of prostitution as defined by Section 1087 of Title 21 of the Oklahoma Statutes;

58. Inducing a minor to engage in prostitution as defined by Section 1088 of Title 21 of the Oklahoma Statutes;

59. A felony offense of stalking as defined by subsection D of Section 1173 of Title 21 of the Oklahoma Statutes;

60. Spread of infectious diseases as defined by Section 1192 of Title 21 of the Oklahoma Statutes;

61. Advocate overthrow of government by force, commit or attempt to commit acts to overthrow the government, organize or

provide assistance to groups to overthrow the government as defined by Section 1266, 1266.4 or 1267.1 of Title 21 of the Oklahoma Statutes;

62. Feloniously discharging a firearm as defined by Section 1289.17A of Title 21 of the Oklahoma Statutes;

63. Possession, use, manufacture, or threat of incendiary device as defined by Section 1767.1 of Title 21 of the Oklahoma Statutes;

64. Causing a personal injury accident while driving under the influence as defined by Section 11-904 of Title 47 of the Oklahoma Statutes; or

65. Using a motor vehicle to facilitate the discharge of a firearm as defined by Section 652 of Title 21 of the Oklahoma Statutes.

F. The policy and procedure developed by the Department of Corrections shall include provisions for adjustment review committees of not less than three members for each such committee. Each committee shall consist of a classification team supervisor who shall act as chairman, the case manager for the inmate being reviewed or classified, a correctional officer or inmate counselor, and not more than two other members, if deemed necessary, determined pursuant to policy and procedure to be appropriate for the specific adjustment review committee or committees to which they are assigned. At least once every four (4) months the adjustment review committee for each inmate shall evaluate the class level status and performance of the inmate and determine whether or not the class level for the inmate should be changed.

Any inmate who feels aggrieved by a decision made by an adjustment review committee may utilize normal grievance procedures in effect with the Department of Corrections and in effect at the facility in which the inmate is incarcerated.

G. Inmates granted medical leaves for treatment that cannot be furnished at the penal institution where incarcerated shall be allowed the time spent on medical leave as time served. Any inmate placed into administrative segregation for nondisciplinary reasons by the institution's administration may be placed in Class 2. The length of any jail term served by an inmate before being transported to a state correctional institution pursuant to a judgment and

sentence of incarceration shall be deducted from the term of imprisonment at the state correctional institution. Inmates sentenced to the Department of Corrections and detained in a county jail as a result of the Department's reception scheduling procedure shall be awarded earned credits as provided for in subparagraph b of paragraph 1 of subsection D of this section, beginning on the date of the judgment and sentence, unless the inmate is convicted of a misdemeanor or felony committed in the jail while the inmate is awaiting transport to the Lexington Assessment and Reception Center or other assessment and reception location determined by the Director of the Department of Corrections.

H. Additional achievement earned credits for successful completion of departmentally approved programs or for attaining goals or standards set by the Department shall be awarded as follows:

Bachelor's degree ..... 200 credits;

Associate's degree ..... 100 credits;

High School Diploma or Equivalent
General Education Diploma ..... 90 credits;

Certification of Completion of
Vocational Training ..... 80 credits;

Successful completion of
Alcohol/Chemical Abuse Treatment
Program of not less than four (4)
months continuous participation ..... 70 credits;

Successful completion of other
Educational Accomplishments or
other programs not specified in
this subsection ..... 10-30 credits;

Achievement earned credits are subject to loss and restoration in the same manner as earned credits.

I. The accumulated time of every inmate shall be tallied monthly and maintained by the institution where the term of imprisonment is being served. A record of said accumulated time shall be:

1. Sent to the administrative office of the Department of Corrections on a quarterly basis; and

2. Provided to the inmate.

SECTION 7. AMENDATORY 57 O.S. 2011, Section 502, is amended to read as follows:

Section 502. As used in this title, unless the context otherwise requires:

1. "Board" means the State Board of Corrections;

2. "Department" means the Department of Corrections of this state;

3. "Director" means the Director of the Department of Corrections;

4. "Halfway house" means a private facility for the placement of inmates in a community setting for the purpose of reintegrating into the community inmates who are nearing their release dates. The term shall not include private prisons;

5. "Institutions" means the Oklahoma State Penitentiary located at McAlester, Oklahoma; the Oklahoma State Reformatory located at Granite, Oklahoma; the Lexington Assessment and Reception Center located at Lexington, Oklahoma; the Joseph Harp Correctional Center located at Lexington, Oklahoma; the Jackie Brannon Correctional Center located at McAlester, Oklahoma; the Howard C. McLeod Correctional Center located at Farris, Oklahoma; the Mack H. Alford Correctional Center located at Stringtown, Oklahoma; the Jim E. Hamilton Correctional Center located at Hodgen, Oklahoma; the Mabel Bassett Correctional Center located at Oklahoma City, Oklahoma; the R.B. "Dick" Conner Correctional Center located at Hominy, Oklahoma; the James Crabtree Correctional Center located at Helena, Oklahoma; the Jess Dunn Correctional Center located at Taft, Oklahoma; the John Lilley Correctional Center located at Boley, Oklahoma; the William S. Key Correctional Center located at Fort Supply, Oklahoma; the Dr. Eddie Walter Warrior Correctional Center located at Taft, Oklahoma; the Northeast Oklahoma Correctional Center located at Vinita, Oklahoma; the Clara Waters and Kate Barnard Community Corrections Centers located at Oklahoma City, Oklahoma; the Community Corrections Centers located at Lawton, Enid, and Muskogee; the Charles E. "Bill" Johnson Correctional Center, located east of

Alva, Oklahoma; and other facilities under the jurisdiction and control of the Department of Corrections or hereafter established by the Department of Corrections;

~~4. "Director" means the Director of the Department of Corrections;~~

~~5. "Halfway house" means a private facility for the placement of inmates in a community setting for the purpose of reintegrating into the community inmates who are nearing their release dates. The term shall not include private prisons;~~

6. "Intermediate revocation facility" means a corrections center operated by the Department of Corrections or a private facility or public trust operating pursuant to contract with the Department of Corrections which provides housing and intensive programmatic services for offenders who have violated the terms or conditions of probation as determined by a supervising probation officer. "Intensive programmatic services" offered by the Department of Corrections includes, but shall not be limited to, alcohol and substance abuse counseling and treatment, mental health counseling and treatment and domestic violence courses and treatment programs;

7. "Intermediate sanctions facility" means a community corrections center operated by the Department of Corrections or a private facility or public trust operating pursuant to contract with the Department of Corrections which provides for the housing and programmatic services of offenders such as probation or parole violators or community sentenced offenders placed in the facility for disciplinary sanctions, work release offenders, offenders who need intensive programmatic services, or offenders who have demonstrated positive adjustment while in an institutional setting who need additional programmatic services to enhance their reentry into society upon release from a prison term; and

~~7.~~ 8. "Private prison contractor" means:

a. a nongovernmental entity or public trust which, pursuant to a contract with the Department of Corrections, operates an institution within the Department other than a halfway house or intermediate sanctions facility, or provides for the housing, care, and control of inmates and performs other functions related to these responsibilities within a minimum,

medium, or maximum security level facility not owned by the Department but operated by the contractor, or

b. a nongovernmental entity or public trust which, pursuant to a contract with the United States or another state, provides for the housing, care, and control of minimum or medium security inmates in the custody of the United States or another state, and performs other functions related to these responsibilities other than a halfway house or intermediate sanctions facility within a facility owned or operated by the contractor.

SECTION 8. AMENDATORY 57 O.S. 2011, Section 517, is amended to read as follows:

Section 517. A. ~~Except as provided in subsection B of this section, the~~ A Probation and Parole Officer ~~shall~~, upon information sufficient to give the officer reasonable grounds to believe that a probationer has ~~violated the terms or conditions of the sentence of probation~~ been charged with or found guilty of committing a felony or misdemeanor offense, or has escaped from custody as provided in Section 443 of Title 21 of the Oklahoma Statutes, shall notify the Department. If it is determined that the facts justify revocation action, the Department shall issue a warrant for the arrest of the probationer and the warrant shall have the force and effect of any warrant of arrest issued by a district court in this state. A probationer shall, after arrest, be immediately incarcerated in the nearest county jail or intermediate sanctions facility to await action by the court as to whether the probation will be revoked.

B. ~~Any probationer determined to have~~ A Probation and Parole Officer, upon information sufficient to give the officer reasonable grounds to believe that a probationer has violated ~~any~~ the terms or conditions of probation ~~by the supervising probation officer~~, may~~, upon~~ notify the Department. If it is determined that the facts justify disciplinary sanctions, the Department shall issue a warrant for the arrest of the probationer and the warrant shall have the force and effect of any warrant of arrest issued by a district court in this state. The probationer shall, after arrest, be immediately incarcerated in the nearest county jail or intermediate sanction facility to await action by the court as to whether disciplinary sanctions shall be imposed. Upon approval of the court and the Department of Corrections, the probationer shall be placed ~~by the court~~ in an intermediate ~~sanctions~~ revocation facility for

disciplinary sanction and intensive programmatic services in lieu of a first revocation ~~when revocation is deemed unnecessary for the nature of the violation~~. Repeated violations by the probationer of the terms and conditions of probation may result in a revocation proceeding.

C. Any probationer for whom a warrant for arrest issues as provided in subsection A of this section may, at the discretion of the court, be placed in an intermediate sanctions facility pending or following any action by the court as to revocation of probation or required additional conditions to remain on probation. A probationer may be processed by the Department on an expedited basis through any facility serving such purpose or may be processed directly by the intermediate sanctions facility.

D. Nothing in this section shall preclude a district attorney from initiating an application to revoke a suspended sentence pursuant to subsection A of this section without a recommendation from the Department or from initiating an application to revoke a suspended sentence and referring the person to an intermediate revocation facility without a recommendation from the Department pursuant to subsection B of this section, when the district attorney believes that competent evidence justifies the revocation of the suspended sentence.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 628 of Title 57, unless there is created a duplication in numbering, reads as follows:

The Department of Corrections is hereby authorized to establish facilities to be designated as intermediate revocation facilities for the purpose of temporarily confining offenders who have violated the terms and conditions of probation. A period of confinement in an intermediate revocation facility shall be for six (6) months. An offender who is referred to an intermediate revocation facility shall not be eligible to receive any earned credits pursuant to the provisions of Section 138 of Title 57 of the Oklahoma Statutes.

SECTION 10. AMENDATORY 63 O.S. 2011, Section 2-402, is amended to read as follows:

Section 2-402. A. 1. It shall be unlawful for any person knowingly or intentionally to possess a controlled dangerous substance unless such substance was obtained directly, or pursuant to a valid prescription or order from a practitioner, while acting

in the course of his or her professional practice, or except as otherwise authorized by this act.

2. It shall be unlawful for any person to purchase any preparation excepted from the provisions of the Uniform Controlled Dangerous Substances Act~~, Section 2-101 et seq. of this title,~~ pursuant to Section 2-313 of this title in an amount or within a time interval other than that permitted by Section 2-313 of this title.

3. It shall be unlawful for any person or business to sell, market, advertise or label any product containing ephedrine, its salts, optical isomers, or salts of optical isomers, for the indication of stimulation, mental alertness, weight loss, appetite control, muscle development, energy or other indication which is not approved by the pertinent federal OTC Final Monograph, Tentative Final Monograph, or FDA-approved new drug application or its legal equivalent. In determining compliance with this requirement, the following factors shall be considered:

a. the packaging of the product,

b. the name of the product, and

c. the distribution and promotion of the product, including verbal representations made at the point of sale.

B. Any person who violates this section with respect to:

1. Any Schedule I or II substance, except marihuana or a substance included in subsection D of Section 2-206 of this title, is guilty of a felony punishable by imprisonment for not less than two (2) years nor more than ten (10) years and by a fine not exceeding Five Thousand Dollars ($5,000.00). A second or subsequent violation of this section with respect to Schedule I or II substance, except marijuana or a substance included in subsection D of Section 2-206 of this title, is a felony punishable by imprisonment for not less than four (4) years nor more than twenty (20) years and by a fine not exceeding Ten Thousand Dollars ($10,000.00); ~~or~~

2. Any Schedule III, IV or V substance, marihuana, a substance included in subsection D of Section 2-206 of this title, or any preparation excepted from the provisions of the Uniform Controlled

Dangerous Substances Act is guilty of a misdemeanor punishable by confinement for not more than one (1) year and by a fine not exceeding One Thousand Dollars ($1,000.00)~~. A second or subsequent violation of this section with respect to any~~;

3. Any Schedule III, IV or V substance, marijuana, a substance included in subsection D of Section 2-206 of this title, or any preparation excepted from the provisions of the Uniform Controlled Dangerous Substances Act ~~is~~ and who, during the period of any court-imposed probationary term or within ten (10) years of the date following the completion of the execution of any sentence or deferred judgment for a violation of this section, commits a second or subsequent violation of this section shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for not less than two (2) years nor more than ten (10) years and by a fine not exceeding Five Thousand Dollars ($5,000.00); or

4. Any Schedule III, IV or V substance, marijuana, a substance included in subsection D of Section 2-206 of this title, or any preparation excepted from the provisions of the Uniform Controlled Dangerous Substances Act and who, ten (10) or more years following the date of completion of the execution of any sentence or deferred judgment for a violation of this section, commits a second or subsequent violation of this section shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for not less than one (1) year nor more than five (5) years and by a fine not exceeding Five Thousand Dollars ($5,000.00).

C. Any person who violates any provision of this section by possessing or purchasing a controlled dangerous substance from any person, in or on, or within one thousand (1,000) feet of the real property comprising a public or private elementary or secondary school, public vocational school, public or private college or university, or other institution of higher education, recreation center or public park, including state parks and recreation areas, or in the presence of any child under twelve (12) years of age, shall be guilty of a felony and punished by:

1. For a first offense, a term of imprisonment, or by the imposition of a fine, or by both, not exceeding twice that authorized by the appropriate provision of this section. In addition, the person shall serve a minimum of fifty percent (50%) of the sentence received prior to becoming eligible for state

correctional institution earned credits toward the completion of said sentence; or

2. For a second or subsequent offense, a term of imprisonment not exceeding three times that authorized by the appropriate provision of this section and the person shall serve a minimum of ninety percent (90%) of the sentence received prior to becoming eligible for state correctional institution earned credits toward the completion of said sentence, and imposition of a fine not exceeding Ten Thousand Dollars ($10,000.00).

D. Any person convicted of any offense described in this section shall, in addition to any fine imposed, pay a special assessment trauma-care fee of One Hundred Dollars ($100.00) to be deposited into the Trauma Care Assistance Revolving Fund created in Section ~~1-2522~~ 1-2530.9 of this title.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20k of Title 74, unless there is created a duplication in numbering, reads as follows:

A. There is hereby established the Justice Reinvestment Grant Program. Contingent upon the provision of appropriate funds designated for Justice Reinvestment grants, the Office of the Attorney General is authorized to award one or more such competitive grants to local law enforcement agencies for the purpose of providing funding for new initiatives and strategies to combat violent crime as proposed by local law enforcement agencies. Funds shall be used for local initiatives, technical assistance, law enforcement training, law enforcement equipment, crime victim services, contractual support and information systems for criminal justice purposes.

B. To be eligible for a Justice Reinvestment Grant, local law enforcement agencies shall submit proposals to the Office of the Attorney General that focus on increasing the capacity of the law enforcement agency to address violent crime within their jurisdiction through one of the following priority strategies:

1. Focusing on intervention and enforcement through the use of increased staffing resources with overtime funds to target violent crime with evidence-driven approaches. Policing initiatives may include directed patrols, "hot spot" policing, intelligence-led policing, or youth and gang violence interventions;

2. Increasing technological capacity to support intervention and enforcement with the purchase of technology for crime prevention and criminal justice problem solving. Technology shall include, but not be limited to, crime-mapping software, Global Positioning Systems (GPS) technology and smart phone tools;

3. Enhancing analytical capacity through the development or expansion of analytical capabilities that focus on crime mapping, analysis of crime trends and developing data-driven strategies that focus on violent crime reduction through the employment of civilian crime analysts;

4. Engaging with community partners in order to develop partnerships and projects that focus on preventing violent crime in the community. Community partners may include, but are not limited to, public and private service providers, the courts, and probation and parole services. Projects shall include, but are not limited to, programs that focus on drug enforcement efforts, youth violent crime, gang violence, and offender recidivism; and

5. Increasing direct services to crime victims through local law enforcement efforts which shall include, but not be limited to, addressing gaps in crime victims services by enhancing accessibility to services, increasing awareness of victimization and partnering with local community providers to improve supports and services to victims of crime.

C. Preference shall be given to grant applicants that can demonstrate a commitment to regional, multijurisdictional strategies to address community safety issues and can clearly outline a comprehensive plan for municipalities to work with law enforcement, community-based organizations and government agencies to address violent criminal activity.

D. Grants awarded pursuant to the Justice Reinvestment Grant Program shall be considered one-time grants awarded to local law enforcement agencies. The Office of the Attorney General shall consult with local law enforcement agencies when determining grant eligibility requirements and criteria. The Office of the Attorney General shall publish guidelines and an application for the competitive portion of the grant program no later than January 1, 2013.

E. The Office of the Attorney General is hereby authorized to adopt rules and procedures as necessary to carry out the provisions of this section.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 201 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Office of the Attorney General shall have the authority to collect information sufficient to meet its responsibilities related to the auditing of justice reinvestment initiatives in this state.

B. The individual forms, computer and electronic data, and other forms of information collected by and furnished to the Attorney General shall be confidential and shall not be public records as defined in the Oklahoma Open Records Act.

C. Except as otherwise provided by state and federal confidentiality laws, identifying information shall not be disclosed and shall not be used for any public purpose other than the creation and maintenance of anonymous data sets for statistical reporting and data analysis.

D. The following entities shall report and submit the required information to the Attorney General on or before November 1, 2016:

1. The Oklahoma State Bureau of Investigation shall provide crime rates for violent, property and drug-related crimes;

2. The Department of Mental Health and Substance Abuse Services shall provide information related to the location and number of mental health beds, funds expended on services for criminal offenders, the total number of mental health assessments completed by the Department, as well as the average score, costs and verification of mental health assessment tools;

3. The District Attorneys Council shall provide information related to the costs of providing training for victim-witness coordinators and support staff who provide services to crime victims and witnesses within each district and the number of assistant district attorneys and support staff employed within each office;

4. The Administrative Director of the Courts shall provide the total number of criminal sentence modifications; and

5. The Department of Corrections shall provide information related to incarceration rates including, but not limited to, the type of criminal offense, average period of incarceration, total number of correctional facilities and the total number of corrections officers, corrections employees and probation and parole employees. The Department of Corrections shall also provide the total number of offenders who are on probation, parole or post-imprisonment supervision and shall also provide information related to the use of sanctions, including technical violations, referrals to intermediate sanctions facilities, intermediate revocation facilities and revocations.

E. The Attorney General shall include in the report the number of grants awarded pursuant to the Justice Reinvestment Grant Program established pursuant to the provisions of Section 11 of this act and the name of the law enforcement agency which received said grant.

F. A detailed report of the data analysis shall be provided by the Attorney General to the Governor, the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the Oklahoma State Senate by January 1, 2017.

SECTION 13. This act shall become effective November 1, 2012.

Passed the House of Representatives the 2nd day of May, 2012.

Presiding Officer of the House of Representatives

Passed the Senate the 25th day of April, 2012.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 3rd day of May, 2012, at 1:40 o'clock PM.

By: Jamie R. Rogers

Approved by the Governor of the State of Oklahoma the 9th day of May, 2012, at 4:15 o'clock PM.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this 9th day of May, 2012, at 4:50 o'clock P. M.

By: Heidi L. McAfee