

OCDLA HOT SHEET--MARCH 2012

2011 LAWS THAT DON'T FIT IN THE LITTLE GREEN BOOK.... BUT YOU NEED TO KNOW ABOUT

Not every law that is passed is suitable for inclusion in the **Little Green Book**. But many laws have an application, although tenuous, to criminal matters and fall into a category of, "I need to remember that..." or are just good for you to know in your private practice.

This HOT SHEET is a way to get a lot of legislative changes in your hands without you actually sitting down with all the session laws and statutes to find out what has changed. Again, remember: these are not all of the new laws passed in 2011, but only those that may be of some assistance to you.

Many thanks to Curt Allen of the Tulsa County Public Defender office for compiling this list and thanks also to all who have helped with the forthcoming updates that will be provided for your **Little Green Book**.

10A O.S. 1-2-102 – requires DHS to more thoroughly investigate reports of child abuse or neglect if the family has been the subject of a deprived action or has had three or more DHS referrals.

10A O.S. 1-4-806—before returning a child to a parent for a trial reunification, everyone in the household has to undergo a criminal background check.

10A O.S. 1-4-807 – in a deprived action review hearing, the judge, DA, counsel for parents, counsel for child and GAL are to receive all service provider progress reports and critical incident reports.

10A O.S. 1-6-101 – a child's social record shall *not* include service provider progress reports and critical incident reports.

10A O.S. 1-6-105 – if a person responsible for a child has been charged with a crime resulting in the death or near death of the child, the circumstances of the death/near death investigation and all other investigations involving the child or any other child in the household shall be disclosed to the public (according to the procedures and restrictions already in the statute) (formerly, only information on investigations within 3 years before and one year after the death or near death could be released)

<http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=462244>

10 OS 7003-3.8 In termination of parental rights, if you TFA for trial, you lose your right to trial.

10 OS 7303-1.2 Misdemeanors can be filed as juvenile cases up to 18 ½ years old

<http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=461836>

11 O.S. 1-110 – Municipal officers or employees (including police officers) who plead guilty or nolo or are convicted of “a felony for bribery, corruption, forgery or perjury or any other crime related to the duties of his or her office or employment” lose their retirement benefits. Deferred sentences only forfeit benefits until the sentence is completed, Does not affect employee contributions or benefits vested before effective date of the act. Act applies even if officer or employee pleads or is convicted after they leave employment.

<http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=462187>

17 O.S. 710.6 – detailed smart grid/ smart meter utility usage information can be obtained by third parties “as required by law,” pursuant to a warrant, subpoena duces tecum “or other court order,” by consent, or in an emergency.

<http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=462301>

19 O.S. 215.29 retired DAs can carry firearms ‘anywhere in the state’

19 O.S. 215.35A retired DA investigator who is CLEET certified can keep his/her badge and firearm

<http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=461975>

20 O.S. 3005 - with a defendant or juvenile's consent, courts can hold hearings via videoconferencing between the court and DOC or an OJA facility. This includes but is not limited to sentence reviews, PCR hearings, delinquent and deprived actions, custody and adoption hearings, commitment proceedings and extradition proceedings

<http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=462258>

21 O.S. 1040.56 – children depicted in child pornography can sue possessors, producers, promoters, of child porn for actual, special, and punitive damages plus attorney's fees. Statute of limitations is 3 years after age 18, end of criminal case, or after knowledge of existence of child porn. Does not apply to Law enforcement, forensic examiners, DAs and child advocacy employees (but not defense counsel) who possess child porn in the course of employment.

<http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=462179>

21 O.S. 1151a one loses the right to control the disposition of a body if you: are charged with killing them, are estranged from them, or wait more than 5 days after they are dead (or 3 days after you're told they are dead) to say anything. (Then the funeral director gets to decide)

<http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=462196>

21 O.S. 1277 – you can now concealed carry on Vo-Tech campuses (with the school's consent)

<http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=462332>

21 O.S. 1289.25 – adds “place of business” to Oklahoma Self-defense Act

<http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=462055>

21 OS 1289.28 – a US attorney or assistant US attorney can carry firearms anywhere in the State if trained <http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=462019>

22 O.S. 471.6 – when a drug court judge allows a drug court participant to drive a car while suspended or revoked by DPS, the suspension time determined by DPS continues to run. (e.g., a 6 month suspension will not begin *after* one graduates from drug court)

<http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=462041>

22 O.S. 1014 removes requirement for 3-drug cocktail for death penalty – now all that is required is “a lethal quantity of drug or drugs”

22 O.S. 1015 Director of DOC can invite however many personnel he wants to an execution; identity of all persons involved in the executioner from supplier to executioner are confidential and are not subject to civil or criminal discovery.

“Any surviving victim approved to view the execution of their perpetrator” changed to;

“Any surviving victim approved to view the execution of the defendant”

<http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=462012>

27A O.S. 2-11-402 – a not-new tire that can still be used or re-used as a tire shall not be called a ‘used’ tire. (Tires that cannot be used/re-used as tires (formerly called waste tires) are now called used tires. <http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=462144>

29 OS 9-111 through 9-114 - Wildlife Bail Procedure Act – brings wildlife bail more in line with 22 OS 1115 *et seq.* (on scene PR bond for minor traffic offenses)

<http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=462162>

43 O.S. 110 adds “social network data” to things that spouses may not damage or destroy as part of the automatic injunction created upon the filing of a divorce, annulment or separation. Also codifies and requires exchange of basic divorce discovery items.

<http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=462238>

43A O.S. 1-103 – RE: definition of “person requiring [mental health] treatment,” modifies the definition of “risk of harm to self or others” Removed the ‘homeless aren’t a risk to themselves or other just by being homeless’ provisions and added that prior mental health or substance abuse history can be used to determine whether a person is a risk to themselves or others. (but the history cannot be the sole reason)

<http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=462304>

47 O.S. 7-116 – with a few exceptions, if you don't have car insurance and you're in a car wreck, you can only recover medical costs, property damage and lost income - but no pain and suffering. (even if the other party is at fault)

<http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=462402>

47 OS 955 Your car (if on a roadway) can be towed if law enforcement has probable cause to believe it is not insured.

57 O.S. 138 Get an Associate's degree in prison = 100 days credit. Get a Bachelor's = 200 days credit. <http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=461837>

57 O.S. 510.9 – Expands DOC's electronic monitoring program – a trip to LARC is no longer required, only 90 days of initial incarceration is required for eligibility (was 180 days), and inmates with more than 11 months to go on a less than 5 year sentence who were initially placed at minimum security level are also eligible. (Formerly, anyone with more than 11 months to go was ineligible)

59 O.S. 5014 - You cannot be a state commercial pet breeder inspector if you are a member of a humane society <http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=462232>

63 O.S. 1-316a Although they were previously of the same legal effect as a certified copy of birth record, heirloom birth certificates “shall not be used as evidence of live birth nor identification purposes.”

<http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=462054>

63 O.S. 942 – spouse and relatives within one degree of consanguinity can get copies of an M.E.'s report.

63 O.S. 942a - spouse and relatives within one degree of consanguinity can appeal the findings of the M.E. within two years of the report.

<http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=462355>

69 O.S 1736 – If you are in a funeral procession for a service member killed in the line of duty in a combat zone or who died of wounds sustained in the same, you can apply to have any tolls paid reimbursed. <http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=462196>

70 OS 5-146.1 – school employees shall notify the school’s designated gang person if they have reason to believe a child is involved with gang activity. The designated gang person may contact law enforcement. Employees are granted civil and criminal immunity for reports made while exercising due care and acting in good faith.

<http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=462148>

74 O.S. 150.5 – If authorized by the Director, OSBI can reveal confidential information to crime victims or homicide victims’ family members.

74 O.S. 150.37 – Switches forensic lab accreditation from American Society of Crime Laboratory Directors to American Board of Forensic Toxicology.

<http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=462108>