

ENROLLED SENATE
BILL NO. 386

BY: WILKERSON of the SENATE

and

DUNEGAN, WEESE, JOHNSON
(Rob), HENSHAW, HOLT,
WORTHEN, POPE and GREENWOOD
of the HOUSE

AN ACT RELATING TO CRIMINAL PROCEDURE, STATE GOVERNMENT AND PRISONS AND REFORMATORIES; CREATING THE DEOXYRIBONUCLEIC ACID (DNA) LABORATORY; DEFINING TERMS; REQUIRING CERTAIN PROCEDURES FOR USE OF DNA EVIDENCE; AMENDING 74 O.S. 1981, SECTION 150.2, AS LAST AMENDED BY SECTION 3, CHAPTER 282, O.S.L. 1990 (74 O.S. SUPP. 1990, SECTION 150.2), WHICH RELATES TO POWERS AND DUTIES OF THE OKLAHOMA STATE BUREAU OF INVESTIGATION; MODIFYING POWERS AND DUTIES; STATING DATE FOR IMPLEMENTATION; AUTHORIZING CERTAIN PARTICIPATION; REQUIRING STANDARDS, GUIDELINES AND COMPLIANCE WITH CERTAIN REGULATIONS; PROVIDING FOR ACQUISITION OR TRANSMITTAL OF SPECIMENS AND INFORMATION; AMENDING SECTION 4, CHAPTER 212, O.S.L. 1989 (57 O.S. SUPP. 1990, SECTION 584), WHICH RELATES TO THE SEX OFFENDERS REGISTRATION ACT; REQUIRING CERTAIN DEOXYRIBONUCLEIC ACID TESTING; MODIFYING STATUTORY REFERENCE; PROVIDING FOR CODIFICATION; AND DECLARING AN EMERGENCY.

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

A. As used in this act:

1. "Deoxyribonucleic Acid (DNA)" means the molecules in all cellular forms that contain genetic information in a patterned chemical structure of each individual; and

2. "DNA Profile" means an analysis of DNA resulting in the identification of an individual's patterned chemical structure of genetic information.

B. If the state decides to offer evidence of a DNA profile in any criminal proceeding, the state shall:

1. At least fifteen (15) days before the criminal proceeding, notify in writing the defendant or the defendant's attorney and mail, deliver, or make available to the defendant or the defendant's attorney a copy of any report or statement to be introduced; and

2. Upon written demand of the defendant filed at least five (5) days before the criminal proceeding, require the presence of any person in the chain of custody as a prosecution witness. Provided, however, failure to make such demand shall not waive any rights of the defendant nor relieve the prosecution of the burden of proof.

SECTION 2. AMENDATORY 74 O.S. 1981, Section 150.2, as last amended by Section 3, Chapter 282, O.S.L. 1990 (74 O.S. Supp. 1990, Section 150.2), is amended to read as follows:

Section 150.2 The Oklahoma State Bureau of Investigation shall have the power and duty to:

1. maintain scientific laboratories to assist all law enforcement agencies in the discovery and detection of criminal activity; and
2. maintain fingerprint and other identification files including DNA profiles; and
3. establish, coordinate and maintain the automated fingerprinting identification system and the deoxyribonucleic acid (DNA) laboratory; and
4. operate teletype, mobile and fixed radio or other communications systems; and
5. conduct schools and training programs for the agents, peace officers, and technicians of this state charged with the enforcement of law and order and the investigation and detection of crime; and
6. assist the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Chief Medical Examiner, and all law enforcement officers and district attorneys when such assistance is requested, in accordance with the policy determined by the Commission; and
7. investigate and detect criminal activity when directed to do so by the Governor; and
8. investigate, detect, institute and maintain actions involving vehicle theft pursuant to Section 150.7 of this title or oil, gas or oil field equipment theft pursuant to Sections 152.2 through 152.9 of this title.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 150.27 of Title 74, unless there is created a duplication in numbering, reads as follows:

On or before July 1, 1994, there shall be established within the Oklahoma State Bureau of Investigation a deoxyribonucleic acid (DNA) laboratory for the purpose of determining DNA profiles to be used for evidence in criminal proceedings. The Oklahoma State Bureau of Investigation shall coordinate the use of this laboratory and equipment with federal, state, county, and municipal law enforcement agencies. All county sheriff departments and all police departments for municipalities may participate in this laboratory. The Oklahoma State Bureau of Investigation shall establish standards and guidelines for the deoxyribonucleic acid (DNA) laboratory and shall comply with any regulations applicable to DNA testing, sampling and laboratory standards.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 150.28 of Title 74, unless there is created a duplication in numbering, reads as follows:

The Director of the Oklahoma State Bureau of Investigation shall establish the procedures, methods and forms necessary for the acquisition or transmittal of specimens and information between the Oklahoma State Bureau of Investigation and participating law enforcement and criminal justice agencies.

SECTION 5. AMENDATORY Section 4, Chapter 212, O.S.L. 1989 (57 O.S. Supp. 1990, Section 584), is amended to read as follows:

Section 584. A. The registration required by the Sex Offenders Registration Act, Section 581 et seq. of this title, shall be in a form approved by the Department of Corrections and shall include the following information about the person registering:

1. His name and all aliases which he has used or under which he has been known;

2. A complete description of his person ~~and shall include,~~ including a photograph and fingerprints, and when requested by the Department of Corrections, such registrant shall submit to a blood test for purposes of a deoxyribonucleic acid (DNA) profile;

3. The offenses listed in ~~Section 2 of this act~~ Section 582 of this title of which he has been convicted or for which he received a suspended sentence, where he committed such offenses, where he was convicted or received the suspended sentence, and the name under which he was convicted or received the suspended sentence;

4. The name and location of each hospital or penal institution to which he was committed for each offense listed in ~~Section 2 of this act~~ Section 582 of this title; and

5. Where he resides, how long he has resided there, how long he expects to reside there, and how long he expects to remain in the county and in the State of Oklahoma.

B. Any person subject to the provisions of the Sex Offenders Registration Act who changes his address within a county shall give written notification of the new address to the Department of Corrections within ten (10) business days after the change of address.

C. The Department of Corrections shall maintain a file of all such registrations which shall be made available to state, county and municipal law enforcement agencies. Said file shall not be made available for public inspection and no person other than a law enforcement officer employed by a state, county or municipal law enforcement agency shall have access to said file. The Department of Corrections shall provide all municipal police departments and all county sheriff departments a list of those sex offenders living in their respective jurisdictions.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 13th day of May, 1991.

President of the Senate

Passed the House of Representatives the 20th day of May, 1991.

Speaker of the House of Representatives