

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 386

BY: WILKERSON

AS INTRODUCED

AN ACT RELATING TO CRIMINAL PROCEDURE, STATE GOVERNMENT AND MOTOR VEHICLES; 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; CREATING THE DNA LABORATORY FUND AND STATING PURPOSE THEREFOR; PROVIDING FOR ACQUISITION OR TRANSMITTAL OF SPECIMENS AND INFORMATION; LEVYING CERTAIN FEE; PROVIDING FOR COLLECTION AND DISTRIBUTION OF THE FEE; PROVIDING FOR CODIFICATION; PROVIDING AN OPERATIVE DATE; 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.

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:

There is hereby created in the State Treasury a revolving fund for the Oklahoma State Bureau of Investigation, to be designated the "DNA Laboratory Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma State Bureau of Investigation, from appropriations, federal grants and assessments levied to said fund pursuant to law. All monies accruing to the credit of said fund are hereby appropriated and shall be budgeted and expended by the Oklahoma State Bureau of Investigation for the purpose of maintaining and operating the deoxyribonucleic acid (DNA) laboratory. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 150.29 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 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1132.2 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. There is levied and there shall be paid to the Oklahoma Tax Commission a fee of twenty-five cents (\$0.25) upon every vehicle to be registered or licensed, except for those licensed pursuant to

subsection (c) of Section 1210.34 of Title 70 of the Oklahoma Statutes. Said fee shall accrue and shall be collectible upon each vehicle under the same circumstances and shall be payable in the same manner and times as apply to vehicle licenses and registrations under the provisions of the Oklahoma Vehicle License and Registration Act, Section 1101 et seq. of Title 47 of the Oklahoma Statutes, provided said fee shall be paid in full for the then current year at the time any vehicle is first registered in a calendar year.

B. The monies collected pursuant to this section shall be transferred by the Oklahoma Tax Commission each month to the State Treasurer for deposit in the DNA Laboratory Fund.

C. The collection and payment of said fee shall be a prerequisite to license or registration of any vehicle, except for those licensed pursuant to subsection (c) of Section 1210.34 of Title 70 of the Oklahoma Statutes.

SECTION 7. Section 6 of this act shall become operative September 1, 1991.

SECTION 8. 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.

43-1-014

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