

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 389

BY: WILKERSON

AS INTRODUCED

AN ACT RELATING TO CRIMINAL PROCEDURE; AMENDING 22 O.S. 1981, SECTION 751, AS AMENDED BY SECTION 26, CHAPTER 109, O.S.L. 1988 (22 O.S. SUPP. 1990, SECTION 751), WHICH RELATES TO ADMISSION OF FINDINGS; REQUIRING CERTAIN CERTIFIED REPORTS TO BE ADMITTED AS EVIDENCE; AUTHORIZING THE COURT TO COMPEL ATTENDANCE OF CERTAIN WITNESSES; REQUIRING CERTAIN NOTICE; REQUIRING CERTAIN CONTINUANCE OF PRELIMINARY HEARING FOR TESTIMONY; AND DECLARING AN EMERGENCY.

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

SECTION 1. AMENDATORY 22 O.S. 1981, Section 751, as amended by Section 26, Chapter 109, O.S.L. 1988 (22 O.S. Supp. 1990, Section 751), is amended to read as follows:

Section 751. A. At any preliminary hearing, a report of the findings of the laboratory of the ~~Bureau~~ Oklahoma State Bureau of Investigation, the medical examiners report of investigation or autopsy report, or a laboratory report from a forensic laboratory operated by the State of Oklahoma or any political subdivision thereof, which has been made available to the accused by the office of the district attorney at least five (5) days prior to the

preliminary hearing, with reference to all or any part of the evidence submitted, when certified as correct by the ~~Bureau employee~~ persons making the report shall, when offered by the state or the accused, be received as evidence of the facts and findings stated, if relevant and otherwise admissible in evidence.

B. 1. The court, upon motion of the state or the accused, shall order the attendance of any person preparing a report submitted as evidence in the preliminary hearing, when it appears there is a substantial likelihood that material evidence not contained in said report may be produced by the testimony of any person having prepared a report.

2. The motion shall be filed and an order issued not less than five (5) days prior to the time when the testimony shall be required.

3. If within five (5) days prior to the preliminary hearing or during a preliminary hearing a motion is made pursuant to this subsection requiring a person having prepared a report to testify, the court may hear a report or other evidence but shall continue the preliminary hearing until such time the motion is heard, and, if sustained, testimony ordered can be given.

C. When any alleged controlled dangerous substance has been submitted to the laboratory of the Bureau for analysis, and such analysis shows that the submitted material is a controlled dangerous substance, the distribution of which constitutes a felony under the laws of this state, no portion of such substance shall be released to any other person or laboratory absent an order of a district court. The defendant shall additionally be required to submit to the court a procedure for transfer and analysis of the subject material to ensure the integrity of the sample and to prevent the material from being used in any illegal manner.

SECTION 2. 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.

43-1-423

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