

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

COMMITTEE SUBSTITUTE

FOR ENGROSSED

SENATE BILL NO. 61

By: Kerr and Wilkerson of the
Senate

and

Benson and Johnson (Rob)
of the House

COMMITTEE SUBSTITUTE

An Act relating to state government; amending 74 O.S. 1991, Section 150.9, which relates to system of criminal identification; deleting certain recordkeeping procedures; providing procedure for fingerprinting of individuals and submission of fingerprints to the Oklahoma State Bureau of Investigation; requiring certain additional identifying information; requiring certain fees for investigations; amending 74 O.S. 1991, Section 150.27, which relates to DNA profiles; authorizing the Oklahoma State Bureau of Investigation to place blood specimens in the DNA population data base; providing for confidentiality; providing for privilege; stating events which are to be reportable; stating responsibility for reporting certain information; stating form and manner of reporting and reporting time requirements; providing for administrative sanctions and reporting sanctions; repealing 74 O.S. 1991, Section 150.12, which relates to sending fingerprints to state and federal bureaus; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 74 O.S. 1991, Section 150.9, is amended to read as follows:

Section 150.9 A. ~~The Oklahoma State Bureau of Investigation shall procure and file for record, photographs, descriptions, fingerprints, measurements and other pertinent information relating to all persons who have been convicted of a felony within the state and of all well-known and habitual criminals, and it shall be the duty of the persons in charge of any state institution to furnish such data upon the request of the Director of the Bureau. The Oklahoma State Bureau of Investigation shall~~

~~cooperate with and assist the sheriffs, chiefs of police and other law enforcement officers of the state in the establishment of a complete system of criminal identification, and shall file for record the fingerprint impressions of all persons confined in any workhouse, jail, reformatory or penitentiary on felony charges, and any other pertinent information concerning such persons as it may from time to time receive from the law enforcement officers of this and other states~~ Following an arrest, or at the arraignment or first appearance of a defendant whose court attendance has been secured by a summons or citation, the arresting officer, sheriff, or police shall take, or cause to be taken, the fingerprints of the arrested person or defendant if an offense which is the basis for the arrest or the accusatory instrument pursuant to which the summons or citation was issued is:

1. A felony

2. Being a fugitive from justice; or

3. Serious misdemeanors as promulgated by the Director of the Oklahoma State Bureau of Investigation.

B. When charges for offenses set out in subsection A of this section are brought against a person already in the custody of a law enforcement or correctional agency and such charges are filed in a case separate from the case for which the person was previously arrested or confined, the agency shall take the fingerprints of the person in connection with the new case.

C. When a defendant is convicted by a court of this state of an offense set out in subsection A of this section, the court shall determine whether such defendant has previously been fingerprinted in connection with the criminal proceedings leading to the conviction and, if not, shall order that the defendant be fingerprinted.

D. The Department of Corrections shall obtain fingerprints of all offenders received on criminal commitment to such facilities.

E. Fingerprints taken after arrest or court appearance pursuant to subsection A of this section or taken from persons already in custody pursuant to subsection B of this section shall be forwarded to the Oklahoma State Bureau of Investigation within

seventy-two (72) hours. Fingerprints taken pursuant to subsections C and D of this section shall be forwarded to the Oklahoma State Bureau of Investigation within ten (10) days after the conviction or reception. In all cases, such fingerprints shall be in the form specified by the Director of the Oklahoma State Bureau of Investigation and shall be accompanied by such additional identifying information as the Director of the Oklahoma State Bureau of Investigation may require by appropriately issued regulations.

F. The Oklahoma Department of Consumer Credit, the Oklahoma State Insurance Commission, the Oklahoma Horse Racing Commission, or any other state agency, board, department or commission ~~requesting an analysis of fingerprints for licensing purposes by the Bureau on any person shall pay a fee of Forty-one Dollars (\$41.00) to the Bureau for each such investigation.~~

~~C. An owner or administrator of a child care facility requesting a criminal history investigation of an applicant for employment shall pay a Ten Dollar (\$10.00) fee to the Bureau for each such investigation. Whenever such request includes an analysis of fingerprints, the fee shall be Forty-one Dollars (\$41.00).~~ or any public or private entity requesting a criminal history record inquiry for commercial, licensing, or other nonlaw enforcement purpose will pay a fee based on the following schedule for the type of record check requested:

<u>Name search, Oklahoma records only</u>	<u>\$10.00</u>
<u>Fingerprint search, Oklahoma records only</u>	<u>\$35.00</u>
<u>Fingerprint search, Oklahoma and FBI records</u>	<u>\$41.00</u>

SECTION 2. AMENDATORY 74 O.S. 1991, Section 150.27, is amended to read as follows:

Section 150.27 A. 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.

B. The Oklahoma State Bureau of Investigation may place any blood specimen received by the Bureau for any purpose in its DNA population data base. The identity of the individual sources of the blood specimen shall be confidential and privileged from criminal or civil discovery.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 150.12C of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The following events shall be reportable events:

1. An arrest;
2. Issuance or withdrawal of an arrest warrant;
3. The release of a person after arrest without the filing of a charge;
4. A decision by a prosecutor not to commence criminal proceedings or to defer or indefinitely postpone prosecution;
5. A decision by a prosecutor to drop charges forwarded by the arresting agency or to add charges to those forwarded by the arresting agency including filing of additional charges subsequent to the initial charge;
6. The presentment of an indictment or the filing of a criminal information or other statement of charges;
7. A release on bail or other conditions pending trial or appeal;
8. A commitment to or release from a place of pretrial confinement;
9. Failure of a person to appear in court as ordered;
10. The dismissal of an indictment or criminal information or any of the charges set out in such indictment or criminal information;

11. An acquittal, conviction or other court disposition at or following trial, including dispositions resulting from pleas;
12. The imposition of a sentence;
13. Failure to pay a fine;
14. A commitment to, release from or escape from a state or local correctional facility, including commitment to or release from a parole or probation agency;
15. A commitment to or release from a hospital or other facility as not criminally responsible or as incompetent to stand trial;
16. The entry of an appeal to an appellate court;
17. A judgment of an appellate court;
18. A pardon, reprieve, commutation of sentence or other change in sentence length, including a change ordered by a court;
19. A revocation of probation or parole or other change in probation or parole status; and
20. Any other event arising out of or occurring during the course of criminal proceedings declared to be reportable by regulations issued by the Director of the Oklahoma State Bureau of Investigation.

B. Information concerning reportable events related to offenses specified in subsection A of Section 150.9 of Title 74 of the Oklahoma Statutes shall be reported to the Oklahoma State Bureau of Investigation by the criminal justice official or agency directly responsible for the reportable action, event or decision. The Director of the Oklahoma State Bureau of Investigation may at his discretion provide for the reporting of particular information by agencies or officials other than those directly responsible for the reportable events to which the information relates, provided such other agencies or officials agree.

C. The form and content of reported information and the method of reporting to the Oklahoma State Bureau of Investigation shall be specified by regulations issued by the Director of the Oklahoma State Bureau of Investigation. Regulations relating to reporting by courts or judicial agencies shall be issued jointly

by the Director of the Oklahoma State Bureau of Investigation and the Oklahoma Court of Criminal Appeals.

D. Criminal justice agencies shall report criminal history record information to the Oklahoma State Bureau of Investigation, whether directly or indirectly, manually or by means of an automated system, in accordance with the following provisions:

1. Information pertaining to an arrest as required by paragraph 1 of subsection A of this section, to the release of a person after arrest without the filing of a charge as required by paragraph 2 of subsection A of this section or to a decision by a prosecutory not to commence criminal proceedings or to defer or postpone prosecution as required by paragraph 3 of subsection A of this section shall be reported to the Oklahoma State Bureau of Investigation within seventy-two (72) hours and shall be entered into the Oklahoma State Bureau of Investigation's database within seventy-two (72) hours after receipt; and

2. Information pertaining to any other reportable event specified in paragraphs 4 through 19 of subsection A of this section shall be reported to the Oklahoma State Bureau of Investigation within thirty (30) days and shall be entered into the Oklahoma State Bureau of Investigation's database within thirty (30) days after receipt.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 150.12D of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Agencies subject to fingerprinting or reporting requirements pursuant to Section 150.9 of Title 74 of the Oklahoma Statutes or Section 3 of this act shall take appropriate steps to ensure that all agency officials and employees understand such requirements and shall provide for and impose in appropriate cases administrative sanctions for failure to report as required.

B. If any criminal justice agency subject to fingerprinting or reporting requirements under Section 150.9 of Title 74 of the Oklahoma Statutes or Section 3 of this act shall intentionally and persistently fail to comply with such requirements, the Director of the Oklahoma State Bureau of Investigation may order that such

agency's access to criminal history record information maintained by the Oklahoma State Bureau of Investigation be denied or restricted until such agency comes into compliance with legal reporting requirements.

SECTION 5. REPEALER 74 O.S. 1991, Section 150.12, is hereby repealed.

SECTION 6. This act shall become effective September 1, 1993.

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