

ENROLLED SENATE  
BILL NO. 61

By: Kerr and Wilkerson of the  
Senate

and

Benson, Johnson (Rob),  
Monks, Dunegan, Weese, Webb  
and Phillips of the House

An Act relating to state government; amending 74 O.S. 1991, Sections 150.2, 150.9, 150.10 and 150.12, which relate to powers and duties of the Oklahoma State Bureau of Investigation, system of criminal identification, uniform crime reporting and sending fingerprints to state and federal bureaus; deleting language; modifying language; requiring criminal history records and information be reported and maintained; setting fees for criminal history record search; construing fingerprint analysis absent specific request; requiring requesting authority to evaluate criminal record for intended purpose; authorizing the Bureau to maintain certain records for identification purposes; requiring confidentiality on certain records; providing for fingerprinting within specific time; making reporting of criminal history information mandatory; stating reportable events; specifying time for reporting certain information; requiring the Bureau to promulgate certain rules; exempting certain offenses from mandatory reporting; setting applicable standards for exempt offenses; directing agencies to ensure compliance; authorizing discontinued access to certain information for noncompliance; and providing an effective date.

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

SECTION 1. AMENDATORY 74 O.S. 1991, Section 150.2, is amended to read as follows:

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

1. ~~maintain~~ Maintain scientific laboratories to assist all law enforcement agencies in the discovery and detection of criminal activity; ~~and~~
2. ~~maintain~~ Maintain fingerprint and other identification files including criminal history records, juvenile identification files, ~~and~~ DNA profiles; ~~and~~
3. ~~establish~~ Establish, coordinate and maintain the automated fingerprinting identification system (AFIS) and the deoxyribonucleic acid (DNA) laboratory; ~~and~~

4. ~~operate~~ Operate teletype, mobile and fixed radio or other communications systems; ~~and~~

5. ~~conduct~~ 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~~ 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 Oklahoma State Bureau of Investigation Commission established in Section 150.3 of this title; and

7. ~~investigate~~ Investigate and detect criminal activity when directed to do so by the Governor; ~~and~~

8. ~~investigate~~ 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; and

9. ~~investigate~~ Investigate any criminal threat made to the physical safety of elected or appointed officials of this state or any political subdivision of the state, and provide security to foreign elected or appointed officials while they are in this state on official business.

SECTION 2. 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, and maintain criminal history records for each person subject to the mandatory reporting provisions of this act, including photographs, descriptions, fingerprints, measurements and other pertinent information relating to all such persons who have been convicted of a felony within the state and of all well-known and habitual criminals, and it.~~ It shall be the duty of law enforcement officers and agencies, sheriffs, police, courts, judicial officials, district attorneys, and the persons in charge of any state correctional facility or institution to furnish such data upon the request of the Director of criminal history records to the Bureau as required by this act. 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 by maintaining a complete system of criminal identification history record on each person subject to the mandatory reporting requirements of this act, and shall have on file for record the fingerprint impressions of all such persons confined in any workhouse, jail, reformatory or penitentiary on felony charges, and any together with other pertinent information concerning such persons as it may from time to time receive be received from the law enforcement officers of this and other states or as may be required by law.~~

B. 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 or any other person or entity requesting a criminal history record or an analysis of fingerprints for commercial, licensing or other purposes by the Bureau on any person, except law enforcement purposes, shall pay a fee ~~of Forty-one Dollars (\$41.00)~~ to the Bureau for each ~~such investigation.~~ criminal history record or fingerprint analysis as follows:

Oklahoma criminal history record only \$15.00 each

Oklahoma criminal history record

with fingerprint analysis

\$35.00 each

National criminal history record

with fingerprint analysis

\$41.00 each

Unless a national criminal history record is specifically requested, a fingerprint analysis shall be limited to only those records available at the Oklahoma State Bureau of Investigation. Following receipt of the appropriate fee, the Bureau shall provide, as soon as possible, the criminal history record requested; provided, however, it shall be the duty and responsibility of the requesting authority to evaluate the criminal history record as such record may apply to a specific purpose or intent.

~~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). The Oklahoma Bureau of Investigation may maintain an identification file, including fingerprint impressions, on any person under eighteen (18) years of age who is arrested or subject to criminal or juvenile delinquency proceedings, provided all such information shall be confidential and shall only be made available to the Bureau and other law enforcement agencies. Whenever a fingerprint impression or other identification information is submitted to the Bureau on a person under eighteen (18) years of age, the Bureau may retain and file such fingerprint and identification information for identification purposes only. The Bureau shall ensure that the information received and maintained for identification purposes on persons under eighteen (18) years of age shall be handled and processed with great care to keep such information confidential from the general public. The Bureau may receive and maintain the fingerprints and other identification information on any person under eighteen (18) years of age believed to be the subject of a runaway, missing, or abduction investigation, for identification purposes at the request of a parent, guardian or legal custodian of the person.~~

SECTION 3. AMENDATORY 74 O.S. 1991, Section 150.10, is amended to read as follows:

Section 150.10 A. A uniform crime reporting system shall be established by the Oklahoma State Bureau of Investigation. The Director shall have the power and duty, when directed by the Commission, to collect and gather such information from such state agencies as may be prescribed in this act.

B. The Oklahoma State Bureau of Investigation is hereby designated as the agency which shall collect, gather, assemble and collate such information as is prescribed by this section.

C. All state, county, city and town law enforcement agencies shall submit a quarterly report to the Oklahoma State Bureau of Investigation on forms prescribed by the Bureau, which report shall contain the number and nature of offenses committed within their respective jurisdictions, the disposition of such matters, and such other information as the Bureau may require, respecting information relating to the cause and prevention of crime, recidivism, the rehabilitation of criminals and the proper administration of criminal justice.

D. Upon receipt of such information the Director shall have such data collated and formulated and shall compile such statistics as he may deem necessary in order to present a proper classification and analysis of the volume and nature of crime and the administration of criminal justice within this state.

E. Refusal or persistent failure of any law enforcement agency to submit reports required by this section may result in discontinued access to Bureau information and assistance.

SECTION 4. AMENDATORY 74 O.S. 1991, Section 150.12, is amended to read as follows:

Section 150.12 A. It is hereby ~~made~~ the duty of any sheriff, chief of police, city marshal, constable and any other law enforcement officer, immediately upon the arrest of any person who, in the best judgment of the arresting officer, is ~~wanted on the charge of the commission of a felony, or who is believed to be a fugitive from justice, or upon the arrest of any person who is in the possession at the time of his arrest of goods or property, reasonably believed to have been stolen by such person, or in whose possession is found a burglary outfit, tools or keys or explosives, reasonably believed to be intended for unlawful use by such person, or who is in possession of an infernal machine, bomb, or other contrivance, in whole or in part, and reasonably believed to be intended for no lawful purpose, or who is carrying concealed firearms or other deadly weapon, reasonably believed to be intended for use in an unlawful purpose, or who is in possession of ink, die, paper or other articles used in the making of counterfeit bank notes, or in the alteration of bank notes, or dies, molds, or other articles used in making counterfeit money, defacing or changing numbers on motor vehicles and reasonably believed to be intended for any unlawful purpose,~~ believed to have committed any offense, except an offense exempted by the rules promulgated by the Oklahoma State Bureau of Investigation pursuant to the provisions of this act, to take or cause to be taken the fingerprint impressions of such person or persons in triplicate to be made of such person or persons and to forward one copy two copies of such impression fingerprint impressions together with identification information to the Oklahoma State Bureau of Investigation, at its Oklahoma City office, and. If fingerprint impressions have not been taken at the time of an arrest, the court shall order the fingerprints to be taken by the sheriff at the arraignment or first appearance of a defendant whose court attendance has been secured by a summons or citation for any offense, except an offense exempted by the rules promulgated by the Bureau. If a person is in the custody of a law enforcement or correctional agency and a warrant issues or an information is filed alleging the person to have committed an offense other than the offense for which the person is in custody, the custodial law enforcement or correctional agency shall take the fingerprints of such person in connection with the new offense, provided the offense is not exempted by the rules of the Bureau. Any fingerprint impressions and identification information required by this subsection shall be sent to the Bureau within seventy-two (72) hours after taking such fingerprints.

B. In order to maintain a complete criminal history record, the court shall inquire at the time of sentencing whether or not the person has been fingerprinted for the offense upon which the sentence is based and, if not, shall order the fingerprints be taken immediately of such person and those fingerprints shall be sent by the law enforcement agency taking the fingerprint impressions to the Bureau within ten (10) days after taking the fingerprint impressions.

C. In addition to any other fingerprints which may have been taken of a person in a criminal matter, the Department of Corrections shall take the fingerprints of all prisoners received at the Lexington Reception and Assessment Center or otherwise received into the custody of the Department and shall send copies of such

fingerprints together with identification information to the Bureau within ten (10) days of taking such fingerprints.

D. The Bureau shall, upon receipt of fingerprint impressions and identification information for offenses not exempt by rule of the Bureau, send one copy of the fingerprint impressions to the Federal Bureau of Investigation, at its Washington, D. C., office, and the other copy to shall be filed in his the Oklahoma State Bureau of Investigation's office. This section is The rules promulgated by the Bureau pursuant to the provision of this act exempting certain offenses from mandatory reporting shall be based upon recommended Federal Bureau of Investigation standards for reporting criminal history information and are not intended to include violators of city or town ordinances, or persons arrested for ordinary misdemeanors, and great care shall be exercised to exclude the reporting of criminal history information for such persons offenses, except when recommended by the Federal Bureau of Investigation standards.

E. The reporting to the Oklahoma State Bureau of Investigation of criminal history information on each person subject to the mandatory reporting requirements of this act shall be mandatory for all law enforcement agencies, courts, judicial officials, district attorneys and correctional administrators participating in criminal matters, whether reported directly or indirectly, manually or by automated system as may be provided by the rules promulgated by the Bureau.

F. Except for offenses exempted by the rules promulgated by the Bureau, the following events shall be reported to the Bureau within seventy-two (72) hours and the Bureau shall have seventy-two (72) hours after receipt of the report to enter such information into a criminal record data base:

1. An arrest;
2. The release of a person after arrest without the filing of any charge; and
3. A decision of a prosecutor not to commence criminal proceedings or to defer or postpone prosecution.

G. Except for offenses exempted by the rules promulgated by the Bureau, the following events shall be reported to the Bureau within thirty (30) days and the Bureau shall have thirty (30) days after receipt of the report to enter such information into a criminal record data base:

1. A decision by a prosecutor to modify or amend initial charges upon which the arrest was made, including deletions or additions of charges or counts;
2. The presentment of an indictment or the filing of a criminal information or other statement of charges;
3. The dismissal of an indictment or criminal information or any charge specified in such indictment or criminal information;
4. An acquittal, conviction or other court disposition at trial or before, during or following trial, including dispositions resulting from pleas or other agreements;
5. The imposition of a sentence;
6. The commitment to or release from the custody of the Department of Corrections or incarceration in any jail or other correctional facility;
7. The escape from custody of any correctional facility, jail or authority;
8. The commitment to or release from probation or parole;
9. An order of any appellate court;
10. A pardon, reprieve, commutation of sentence or other change in sentence, including a change ordered by the court;

11. A revocation of probation or parole or other change in probation or parole status; and

12. Any other event arising out of or occurring during the course of criminal proceedings or terms of the sentence deemed necessary as provided by the rules established by the Bureau.

The Bureau shall have authority to withhold any entry on a criminal history record when there is reason to believe the entry is based on error or an unlawful order. The Bureau shall in such case take immediate action to clarify or correct the entry.

H. Information reportable under the provisions of this section shall be reportable by the law enforcement officer or person directly responsible for the action, event or decision, unless otherwise provided by rule or agreement. The form and content of information to be reported and methods for reporting information, including fingerprint impressions and other identification information, shall be established by the rules promulgated by the Bureau. The Bureau is hereby directed to establish rules to implement the provisions of this act, provided any rule relating to reporting by courts or judicial officials shall be issued jointly by the Bureau and the Oklahoma Court of Criminal Appeals.

I. Any person or agency subject to the mandatory reporting of criminal history information or fingerprints as required by the provisions of this act shall take appropriate steps to ensure that appropriate agency officials and employees understand such requirements. Each agency shall establish, and in appropriate cases impose, administrative sanctions for failure of an official or employee to report as provided by law. Refusal or persistent failure of a person or agency to comply with the mandatory reporting requirements of this act may result in the discontinued access to Bureau information or assistance until such agency complies with the law.

SECTION 5. This act shall become effective September 1, 1994.  
Passed the Senate the 27th day of April, 1994.

President of the Senate

Passed the House of Representatives the 20th day of May, 1994.

Speaker of the House of Representatives