

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2151

By: Dunegan

AS INTRODUCED

An Act relating to state government; amending 74 O.S. 1991, Section 150.27, which relates to the Oklahoma State Bureau of Investigation DNA laboratory; authorizing the Bureau to place blood samples in its DNA population data bank for certain purposes; authorizing the establishment of an index of DNA identification records of certain persons; specifying contents of such index; requiring certain standards; authorizing limited disclosure; subjecting certain record exchange to cancellation under certain circumstances; specifying authorized disclosures of results of DNA tests; prohibiting certain acts; providing penalties; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. 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 in the DNA population data bank for any purpose, including but not limited to a population statistics database, for identification research and protocol development purposes, or for quality control purposes. The identity of the individual sources of the blood specimens shall be confidential and privileged from criminal or civil discovery.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 150.27a of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Director of the Oklahoma State Bureau of Investigation may establish an index of DNA identification records of persons convicted of crimes. Such index may include only information on DNA identification records and DNA analyses that are:

1. Based on analyses performed in accordance with publicly available standards that satisfy or exceed the guidelines for a quality assurance program for DNA analysis issued by the Oklahoma State Bureau of Investigation; and

2. Maintained by state and local criminal justice agencies pursuant to rules that allow disclosure of stored DNA samples and DNA analyses only:

- a. to criminal justice agencies for law enforcement identification purposes,
- b. for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged, or
- c. if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

B. The exchange of records authorized by this section is subject to cancellation if the quality control and privacy requirements described in subsection A of this section are not met.

C. Except as provided for in subsection D of this section, the results of DNA tests performed for a law enforcement agency for law enforcement purposes may be disclosed only:

1. To criminal justice agencies for law enforcement identification purposes; or
2. For criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged.

D. If personally identifiable information is removed, test results may be disclosed for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

E. Any person who, by virtue of employment or official position, has possession of, or access to, individually identifiable DNA information indexed in a database created or maintained by any law enforcement agency and willfully discloses such information in any manner to any person or agency not entitled to receive it, upon conviction, shall be guilty of a felony punishable by the imposition of a fine not to exceed One Hundred Thousand Dollars (\$100,000.00).

F. Any person who, without authorization, willfully obtains DNA samples or individually identifiable DNA information indexed in a database created or maintained by any law enforcement agency, upon conviction, shall be guilty of a felony punishable by the imposition of a fine not to exceed One Hundred Thousand Dollars (\$100,000.00).

SECTION 3. This act shall become effective July 1, 1994.

SECTION 4. 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.

44-2-8061

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