

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

HOUSE BILL NO. 2228

By: Askins

AS INTRODUCED

An Act relating to criminal procedure; amending 22 O.S. 1991, Section 751, as amended by Section 3, Chapter 355, O.S.L. 1992 (22 O.S. Supp. 1995, Section 751), which relates to admissions of certain findings; making certain reports admissible as evidence at hearings prior to trial; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 1991, Section 751, as amended by Section 3, Chapter 355, O.S.L. 1992 (22 O.S. Supp. 1995, Section 751), is amended to read as follows:

Section 751. A. At any ~~preliminary~~ hearing prior to trial, a report of the findings of the laboratory of the 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

persons making the report shall be received as evidence of the facts and findings stated, if relevant and otherwise admissible in evidence. If such report is deemed relevant by the state or the accused, the court shall admit such report without the testimony of the person making the report, unless the court, pursuant to subsection C of this section, orders such person to appear.

B. 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.

C. For purposes of the medical examiner's 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:

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~~ any hearing prior to trial, 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 notice of the hearing on the motion to order the attendance of the medical examiner shall be given to the medical examiner's office. The hearing shall be held and, if sustained, 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 notice of the motion and hearing is given to the medical examiner's office, the motion is heard, and, if sustained, testimony ordered can be given.

SECTION 2. This act shall become effective November 1, 1996.

45-2-8252

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