

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

HOUSE BILL HB2336

By: Plunk

AS INTRODUCED

An Act relating to the Oklahoma State Bureau of Investigation; amending 74 O.S. 1991, Sections 150.2, as last amended by Section 1, Chapter 281, O.S.L. 1996, 150.9, as amended by Section 2, Chapter 259, O.S.L. 1994, 150.10, as last amended by Section 1, Chapter 291, O.S.L. 1997, and 150.12, as amended by Section 4, Chapter 259, O.S.L. 1994 (74 O.S. Supp. 1999, Sections 150.2, 150.9, 150.10 and 150.12), which relate to powers and duties of the Bureau and criminal history records; designating Bureau as only agency to provide certain criminal history records to the public; modifying fee; authorizing individual to provide certain documentation to Bureau; requiring law enforcement officers to provide certain information within specified period of time; modifying time period in which certain items are to be forwarded to the Bureau; modifying rulemaking entity; 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, as last amended by Section 1, Chapter 281, O.S.L. 1996 (74 O.S. Supp. 1999, 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 scientific laboratories to assist all law enforcement agencies in the discovery and detection of criminal activity;

2. Maintain fingerprint and other identification files including criminal history records, juvenile identification files, and DNA profiles;

3. Operate as the sole and exclusive source for statewide, fingerprint-based criminal history records and, as such, is

designated as the only state, county, or municipal agency or political subdivision empowered to:

- a. disseminate such records to the public for noncriminal justice purposes pursuant to the Open Records Act,
- b. charge a processing fee, and
- c. receive payment from any source for such dissemination.

This paragraph does not apply to records specifically required by law to be kept confidential, nor does it preclude county or municipal agencies from providing the public with criminal history information which is contained in the files of that agency and which pertains solely to offenses committed, arrests made, or criminal prosecutions conducted within their respective jurisdictions;

4. Establish, coordinate and maintain the automated fingerprinting identification system (AFIS) and the deoxyribonucleic acid (DNA) laboratory;

~~4.~~ 5. Operate teletype, mobile and fixed radio or other communications systems;

~~5.~~ 6. 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;

~~6.~~ 7. 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;

~~7.~~ 8. Investigate and detect criminal activity when directed to do so by the Governor;

~~8.~~ 9. 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.~~ 10. 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 forward the results of that investigation to the Department of Public Safety, 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, as amended by Section 2, Chapter 259, O.S.L. 1994 (74 O.S. Supp. 1999, Section 150.9), is amended to read as follows:

Section 150.9 A. The Oklahoma State Bureau of Investigation shall procure, file 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 such persons. 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 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 by maintaining a complete criminal history record on each person subject to the mandatory reporting requirements of this act, and shall have on file the fingerprint impressions of all such persons together with other pertinent information as may from time to time 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, except law enforcement purposes, shall pay a fee to the Bureau for each 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 <u>\$19.00</u> 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. An individual may submit a certified court record showing that a charge was dismissed to the Oklahoma State Bureau of Investigation, and upon verification of that record the Bureau records shall reflect the dismissal of that charge.

C. 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, as last amended by Section 1, Chapter 291, O.S.L. 1997 (74 O.S. Supp. 1999, 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.

~~F. An individual may submit a certified court record showing that a charge was dismissed to the Oklahoma State Bureau of Investigation and upon verification, the Bureau records shall reflect the dismissal of that charge.~~

SECTION 4. AMENDATORY 74 O.S. 1991, Section 150.12, as amended by Section 4, Chapter 259, O.S.L. 1994 (74 O.S. Supp. 1999, Section 150.12), is amended to read as follows:

Section 150.12 A. It is hereby 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 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 and to forward two copies of such fingerprint impressions together with identification information to the Oklahoma State Bureau of Investigation, at its Oklahoma City office. The law enforcement officers shall also forward the prosecution filing report and the disposition report forms to the appropriate prosecuting authority within seventy-two (72) hours. 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, or at the time of final adjudication 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~~ seventy-two (72) hours 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~~ seventy-two (72) hours 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 shall be filed in the Oklahoma State Bureau of Investigation's office. 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 and great care shall be exercised to exclude the reporting of criminal history information for such 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 Supreme 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 November 1, 2000.

47-2-8031 LAC 6/12/15