

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 626

By: Helton

AS INTRODUCED

An Act relating to criminal procedure and the Office of the Chief Medical Examiner; amending 22 O.S. 1991, Section 751, as last amended by Section 2, Chapter 199, O.S.L. 1996 (22 O.S. Supp. 1998, Section 751), which relates to certain evidence and reports; authorizing continuance of certain proceedings when certain reports are not furnished to the accused; clarifying persons to be given notice to attend certain proceedings; prohibiting admission into evidence of certain information of medical examiners except under certain conditions and providing exceptions; allowing request by any party to the Office of the Chief Medical Examiner for the furnishing of records to be admitted as evidence in a civil action; requiring party seeking admission of records to serve interrogatories; providing that interrogatories and answers be admissible in evidence in civil cases; allowing the taking of depositions; requiring such depositions take place at certain locations with exception; and declaring an emergency.

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

SECTION 1. AMENDATORY 22 O.S. 1991, Section 751, as last amended by Section 2, Chapter 199, O.S.L. 1996 (22 O.S. Supp. 1998, Section 751), is amended to read as follows:

Section 751. A. At any hearing prior to trial or at a forfeiture hearing, 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 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~~ a report is deemed relevant by the state or the accused, the court shall admit ~~such~~ the report without the testimony of the person making the report, unless the court, pursuant to subsection C of this section, orders ~~such~~ the person making the report to appear. If the accused is not served with a report, by the district attorney, within five (5) days prior to a hearing, the accused may be allowed a continuance of the portion of the hearing to which the report is relevant, to allow at least five (5) days preparation subsequent to the district attorney's furnishing of the report.

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~~ without 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 any hearing prior to trial or forfeiture hearing, when it appears there is a substantial likelihood that material evidence not contained in ~~said~~ such report may be produced by the testimony of ~~any~~ the person having prepared ~~a~~ the report.

2. The motion shall be filed and notice of the hearing on the motion to order the attendance of the Chief Medical Examiner, a medical examiner, consultant pathologist, or anyone under their supervision or control 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 hearing or during a 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 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. 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.

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