

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL 1591

By: Wilkerson

COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma State Bureau of Investigation; amending 74 O.S. 2001, Section 150.2, which relates to the responsibilities of the Bureau; modifying language; directing the OSBI to maintain a nationally accredited scientific laboratory; creating the Forensic Laboratory Accreditation Act; providing short title; defining terms; providing for forensic laboratories to meet certain standards by certain dates; setting standards; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 74 O.S. 2001, 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 a nationally accredited scientific ~~laboratories~~ laboratory 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. Establish, coordinate and maintain the automated fingerprinting identification system (AFIS) and the deoxyribonucleic acid (DNA) laboratory;
4. Operate teletype, mobile and fixed radio or other communications systems;

5. 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. 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. Investigate and detect criminal activity when directed to do so by the Governor;

8. 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;

9. 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; and

10. Investigate and detect violations of the Oklahoma Computer Crimes Act.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 150.36 of Title 74, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Forensic Laboratory Accreditation Act".

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 150.37 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. For purposes of this act:

1. "ASCLD/LAB" shall mean the American Society of Crime Laboratory Directors/Laboratory Accreditation Board;
2. "ABFT" shall mean the American Board of Forensic Toxicology;
3. "Forensic laboratory" shall mean a laboratory operated by the state or any unit of municipal, county, city or other local government that examines physical evidence in criminal matters and provides opinion testimony in a court of law in forensic disciplines accredited by ASCLD/LAB;
4. "Technical peer review system" shall mean a system whereby the case work by an employee of a forensic laboratory shall be reviewed for technical correctness by a qualified peer;
5. "Proficiency testing program" shall mean a program whereby the competency of analysis and the quality of performance of a laboratory is evaluated by external testing; and
6. "Toxicology analysis" shall mean a laboratory analysis whereby biological samples are tested for alcohol and/or other toxic or intoxicating substances.

B. Effective January 1, 2003 all forensic laboratories as defined in this act shall have a technical peer review system sufficient to meet or exceed ASCLD/LAB accreditation standards. This section shall not apply to:

1. Breath testing for alcohol;
2. Field testing, crime scene processing, crime scene evidence collection, and crime scene reconstruction; and
3. Laboratories that exclusively and solely perform forensic toxicology analysis. Such laboratories shall have a technical peer review system sufficient to meet or exceed either ASCLD/LAB or ABFT accreditation standards.

C. Effective January 1, 2004 all forensic laboratories as defined in this act shall have a proficiency testing program sufficient to meet or exceed ASCLD/LAB accreditation standards for such systems. This subsection shall not apply to:

1. Breath testing for alcohol;

2. Field testing, crime scene processing, crime scene evidence collection, and crime scene reconstruction; and

3. Laboratories that exclusively and solely perform forensic toxicology analysis. Such laboratories shall have a proficiency testing program sufficient to meet or exceed either ASCLD/LAB or ABFT accreditation standards.

D. Effective July 1, 2005 all forensic laboratories as defined in this act established or operating prior to that date shall be ASCLD/LAB accredited. The following exceptions shall apply:

1. Breath testing for alcohol;

2. Field testing, crime scene processing, crime scene evidence collection, and crime scene reconstruction; and

3. All forensic laboratories established on or after July 1, 2005, as defined in this act, shall be ASCLD/LAB accredited within two (2) years of establishment;

4. Forensic laboratories that exclusively and solely perform forensic toxicology analysis may meet this requirement by being either ASCLD/LAB accredited or ABFT accredited.

E. On or after July 1, 2005, testimony, results, reports, or evidence of forensics analysis produced on behalf of the prosecution in a criminal trial in forensic disciplines accredited by ASCLD/LAB shall be done by an ASCLD/LAB accredited forensic laboratory. This section shall not apply to:

1. Testimony, results, reports, or evidence of forensic analysis produced by a forensic laboratory established after July 1, 2005 and not yet required to be accredited as set forth in subsection D of this section;

2. Testimony, results, reports, or evidence of forensic analysis produced by a forensic laboratory prior to July 1, 2005. Such testimony, results, reports, or evidence need not be performed by an accredited forensic laboratory and may be produced or

presented on behalf of the prosecution in a criminal trial after July 1, 2005 as long as the forensic analysis was produced prior to that date;

3. Testimony, results, reports, or evidence of breath testing for alcohol;

4. Testimony, results, reports, or evidence of field testing, crime scene processing, crime scene evidence collection, and crime scene reconstruction;

5. Testimony, results, reports, or evidence of forensic toxicology analysis performed by laboratories that exclusively and solely perform such forensic toxicology analysis. Such laboratories may produce and present such testimony, results, reports, or evidence if it is either ASCLD/LAB accredited or ABFT accredited; and

6. Testimony, results, reports, or evidence of forensic analysis in forensic disciplines which are optional for a laboratory seeking ASCLD/LAB accreditation.

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.

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