

ENGROSSED HOUSE
BILL NO. 2116

By: Braddock and Nance of the
House

and

Henry of the Senate

An Act relating to the Oklahoma State Bureau of Investigation; amending 74 O.S. 2001, Section 150.7, which relates to duties of the Director; authorizing payment of certification, uniform and equipment expenses for certain individuals; amending 74 O.S. 2001, Section 150.11, which relates to evidentiary property disposition; modifying time period for holding property; specifying procedure for forfeiture of certain types of property; amending 74 O.S. 2001, Section 150.21, which relates to the legal division; authorizing attorneys to appear in certain types of proceedings; and providing an effective date.

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

SECTION 1. AMENDATORY 74 O.S. 2001, Section 150.7, is amended to read as follows:

Section 150.7 The Director of the Oklahoma State Bureau of Investigation shall have the following powers, duties and responsibilities:

1. To appoint or dismiss a Deputy Director who shall have the same qualifications as the Director;

2. To supervise the maintaining of all reports and records of the Bureau and to promulgate administrative rules concerning the destruction and retention of such records. Such records shall not be transferred to the custody or control of the State Archives Commission or be subject to the provisions of Section 590 of Title 21 of the Oklahoma Statutes. The Director may, pursuant to adopted and promulgated administrative rule, order destruction of records deemed to be no longer of value to the Bureau, excluding criminalistic and investigative records which shall forever be kept and maintained;

3. To report to the Commission at each regular meeting, or as directed by the Commission, the current workload of the Bureau. Such reports shall be submitted by category of the persons or entities authorized to initiate investigations as provided for in subsection A of Section 150.5 of this title, and any other category the Commission may request which does not violate the confidentiality restrictions imposed in Sections 150.1 through 152.9 of this title. Such reports shall contain the following information:

- a. what types of investigations are pending,
- b. what new types of investigations have been opened,
- c. what types of investigations have been closed, and
- d. what criminal charges have been filed as a result of Bureau investigations.

The reports shall not contain any information on the individual subjects of the investigation or persons questioned in connection with an investigation. These reports shall be open for public inspection; ~~and~~

4. To designate positions, appoint employees and fix salaries of the Bureau, other than the salaries established by subsection A of Section ~~±~~ 150.6a of this ~~act~~ title, and to authorize the payment of necessary certification expenses for the employees; and

5. To authorize the purchase and issuance of uniforms for all law enforcement officers, criminalists, and other personnel of the Bureau as designated by the Director and to purchase and issue necessary equipment for all employees of the Bureau. All uniforms and equipment shall be used only in the performance of the official duties of the officers, criminalists or other personnel and shall remain the property of the Bureau except as otherwise provided by law.

SECTION 2. AMENDATORY 74 O.S. 2001, Section 150.11, is amended to read as follows:

Section 150.11 A. All property which comes into the possession of the Oklahoma State Bureau of Investigation (OSBI), whether the same is stolen ~~or~~, embezzled ~~property~~ or otherwise, which the Bureau has held for at least ~~two (2) years~~ one (1) year unless said property is perishable, may be disposed of by order of ~~the~~ an Oklahoma County district court if the owner or owners of said property are unknown or have not claimed the same. The Director of the Oklahoma State Bureau of Investigation shall then be authorized to sell, deposit, or otherwise dispose of such property or any part thereof which is no longer needed to be held as evidence or otherwise used in connection with any litigation. ~~The Director shall make a list of such property, with identification numbers and marks, if any, the approximate date that said property came into his possession, and the name of the owners, if known, which shall be a part of or attached to a petition to be filed in the district court of Oklahoma County in which he shall ask for authority to conduct a sale of such property. Upon the filing of said petition, notice of at least ten (10) days shall be given to each and every known owner by mailing to said owners at their last-known addresses a copy of the notice of hearing of the petition for sale of such property, which shall contain a brief description of the property and shall list the time and place at which it shall be sold. In addition thereto, notice of hearing shall be posted in three public places in the county, one being the county courthouse at the regular place assigned for the posting of legal notices. At the hearing, if no owner appears and establishes ownership to said property, the court may enter an order authorizing the Director to sell said property to the highest bidder after at least five (5) days' notice has been given by publication in one issue of a legal newspaper of the county. The Director shall make a return of said sale and when confirmed by the court the order confirming said sale shall vest in the purchaser title to the property so purchased. The money received~~

~~shall be deposited in the General Revenue Fund of the State of Oklahoma.~~

B. 1. If cash or other legal tender is the subject of the action, the Director shall file a petition in the district court of Oklahoma County requesting authority to forfeit and deposit the funds. The petition shall include the following information:

- a. description of the property,
- b. approximate date that the property came into possession of the Director, and
- c. the names of the owner or owners, if known.

2. Upon the filing of the petition, notice of at least ten (10) days shall be given to each known owner by the Director of the OSBI by mailing a copy of the petition and notice of hearing to the last known address of each owner.

3. Notice of the hearing shall also be posted at the Oklahoma County courthouse at the regular place assigned for the posting of legal notices and in the public lobby at OSBI headquarters.

4. If no owner appears and establishes ownership to the cash or legal tender, the court shall enter an order authorizing the forfeiture of the funds to the OSBI. All monies forfeited shall be deposited into the OSBI Revolving Fund.

C. 1. For disposition of all other seized property, the Director shall file a petition in the district court of Oklahoma County requesting authority to conduct a sale of the property. The petition shall include the following information:

- a. description of the property,
- b. approximate date that the property came into the possession of the Director, and
- c. the names of the owner or owners, if known.

2. Upon the filing of the petition, notice of at least ten (10) days shall be given to each known owner by the Director of the OSBI

by mailing a copy of the petition and notice of hearing to the last known address of each owner.

3. Notice of the hearing shall also be posted at the Oklahoma County courthouse at the regular place assigned for the posting of legal notices and in the public lobby at OSBI headquarters.

4. If no owner appears and establishes ownership to the property, the court shall enter an order authorizing the Director to sell the property to the highest bidder after notice of at least five (5) days of the auction has been given by publication in one issue of a legal newspaper of record in Oklahoma County.

5. The Director shall make a return of sale, and when confirmed by the court, the order confirming the sale shall vest title of the property to the purchaser. The money received from the sale shall be deposited in the OSBI Revolving Fund.

SECTION 3. AMENDATORY 74 O.S. 2001, Section 150.21, is amended to read as follows:

Section 150.21 The Oklahoma State Bureau of Investigation shall establish or provide for a legal division and the Director may employ two attorneys as needed, which attorneys, in addition to advising the Director, the Commission and employees of the Bureau on legal matters, may appear for and represent the Director, the Commission and employees of the Bureau in administrative hearings and other legal actions and proceedings. No Bureau attorney shall enter an appearance in a criminal action nor engage in private practice of the law while in the employment of the Oklahoma State Bureau of Investigation, except for the purpose of representing the agency in motions to quash subpoenas, other discovery matters, expungement applications, evidentiary hearings, and forfeiture proceedings. It shall continue to be the duty of the Attorney General to give official opinions to and to prosecute and defend actions for the Director, Commission and employees of the Bureau, if requested to do so.

SECTION 4. This act shall become effective November 1, 2002.

Passed the House of Representatives the 19th day of March, 2002.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2002.

Presiding Officer of the Senate