

ENROLLED SENATE
BILL NO. 1542

By: Nichols of the Senate

and

Balkman of the House

An Act relating to courts and state government; amending 20 O.S. 2001, Section 1313.3, as last amended by Section 9 of Enrolled House Bill No. 2725 of the 2nd Session of the 49th Oklahoma Legislature, which relates to fingerprinting fees; increasing certain fees; amending 74 O.S. 2001, Section 150.12, as amended by Section 12, Chapter 199, O.S.L. 2003 (74 O.S. Supp. 2003, Section 150.12), which relates to mandatory reporting of fingerprint and criminal history information; modifying certain fingerprinting requirements; and providing an effective date.

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

SECTION 1. AMENDATORY 20 O.S. 2001, Section 1313.3, as last amended by Section 9 of Enrolled House Bill No. 2725 of the 2nd Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 1313.3 A. In addition to the fees imposed by Sections 1313.2 and 1313.4 of this title, any person convicted of any offense, including traffic offenses but excluding parking and standing violations, punishable by a fine of Ten Dollars (\$10.00) or more or by incarceration or any person forfeiting bond when charged with such offense, shall be ordered by the court to pay a fingerprinting fee in the amount of ~~Three Dollars (\$3.00)~~ Five Dollars (\$5.00) for each offense for the A.F.I.S. Fund created by Section 150.25 of Title 74 of the Oklahoma Statutes. The fee shall be in addition to and not in substitution for any and all fines and penalties otherwise provided for by law for the offense. The fee shall be collected at the same time as the fees provided for in Section 1313.2 of this title. ~~Two Dollars and seventy cents (\$2.70)~~ Four Dollars and fifty cents (\$4.50) of each fee received pursuant to this section shall be paid directly to the A.F.I.S. Fund and the balance shall be deposited in the General Revenue Fund by the court clerk. The payments shall be made to the appropriate fund by the court clerk on a monthly basis as set forth by subsection H of Section 1313.2 of this title.

B. As used in this section:

1. "Convicted" means any final adjudication of guilt, whether pursuant to a plea of guilty or nolo contendere or otherwise, and any deferred judgment or suspended sentence; and

2. "Court" means any state or municipal court having jurisdiction to impose a criminal fine or penalty.

SECTION 2. AMENDATORY 74 O.S. 2001, Section 150.12, as amended by Section 12, Chapter 199, O.S.L. 2003 (74 O.S. Supp. 2003, Section 150.12), is amended to read as follows:

Section 150.12 A. 1. It is hereby the duty of any sheriff, chief of police, city marshal, constable and any other law enforcement officer who takes custody of a person who has been arrested and 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 Section 150.1 et seq. of this title, 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. If the sheriff, chief of police, city marshal, or constable has contracted for the custody of prisoners, such contractor shall be required to take the fingerprint impressions of such person.

2. It shall not be the responsibility of, nor shall the sheriff, chief of police, city marshal, constable, other law enforcement officer, or contractor receiving custody of an arrested person as a prisoner require the arresting officer to take the fingerprint impressions of the arrested person; provided, if the arresting officer is employed by the same law enforcement agency as the sheriff, chief of police, city marshal, or constable receiving custody of such person, the arresting officer may be required to take such impressions.

3. 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, 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 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 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 Section 150.1 et seq. of this title 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 Section 150.1 et seq. of this title, provided any rule relating to reporting by courts or judicial officials shall be issued jointly by the Bureau and the Oklahoma Supreme Court.

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 3. This act shall become effective November 1, 2004.

Passed the Senate the 24th day of May, 2004.

Presiding Officer of the Senate

Passed the House of Representatives the 26th day of May, 2004.

Presiding Officer of the House
of Representatives