

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 2041

By: Nichols and Coffee of the
Senate

3
4 and

Terrill of the House
5
6
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8 (criminal procedure - OSBI Combined DNA Index System

9 (CODIS) Database -

10 emergency)
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13 AUTHORS: Add the following House Coauthors: Derby, Roan, Coody,
14 Martin (Steve), Sears, Billy and Denney

15 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
16 entire bill and insert

17 "An Act relating to criminal procedure; creating
18 Julie's Law; requiring certain persons submit to
19 deoxyribonucleic acid (DNA) testing; stating persons
20 responsible for collecting samples; requiring
21 collectors of DNA samples be properly trained;
22 providing immunity from civil liability; requiring
23 collectors to mail DNA sample to the Oklahoma State
24 Bureau of Investigation within certain time period;
requiring collectors to use certain sample kits;
providing list of misdemeanor crimes; amending 74
O.S. 2001, Section 150.27a, as last amended by
Section 5, Chapter 441, O.S.L. 2005 (74 O.S. Supp.
2007, Section 150.27a), which relates to the
Oklahoma State Bureau of Investigation DNA Offender
Database; modifying scope of DNA database collection

1 requirements; deleting certain DNA specimen
2 submission and maintenance provision; requiring DNA
3 samples be taken by certain persons; providing list
4 of misdemeanor crimes; providing immunity from civil
5 liability; directing agencies to mail DNA samples
6 within certain number of days; directing use of
7 certain kits and procedures; providing enumerated
8 list of persons required to submit a DNA sample;
9 clarifying DNA collection guidelines; requiring
10 payment of DNA testing fee; deleting certain DNA
11 collection guidelines; allowing inclusion of DNA
12 specimens under certain circumstances; providing for
13 codification; providing for noncodification; and
14 declaring an emergency.

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

16 SECTION 1. NEW LAW A new section of law not to be
17 codified in the Oklahoma Statutes reads as follows:

18 Sections 2 and 3 of this act shall be known and may be cited as
19 "Julie's Law".

20 SECTION 2. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 241 of Title 22, unless there is
22 created a duplication in numbering, reads as follows:

23 A. Subject to the availability of funds, any person who is
24 arrested for a felony but is found guilty of a misdemeanor offense
within this state shall submit to deoxyribonucleic acid (DNA)
testing for law enforcement identification purposes in accordance
with Section 150.27a of Title 74 of the Oklahoma Statutes and the
rules promulgated by the Oklahoma State Bureau of Investigation for
the OSBI Combined DNA Index System (CODIS) Database.

1 B. Samples of blood or saliva for DNA testing required by
2 subsection A of this section shall be taken by employees or
3 contractors of federal, state, county or municipal law enforcement
4 or criminal justice agencies. The individuals shall be properly
5 trained to collect blood or saliva samples. The person or persons
6 collecting blood or saliva for DNA testing pursuant to this section
7 shall be immune from civil liabilities arising from this activity.
8 All collectors of DNA samples shall ensure the collection of samples
9 is mailed to the Oklahoma State Bureau of Investigation within ten
10 (10) days from the date the sample is taken from the person. All
11 collectors of DNA samples shall use sample kits provided by the OSBI
12 and procedures promulgated by the OSBI.

13 C. As used in this section, "misdemeanor offense" shall include
14 the following crimes:

15 1. Outraging public decency as provided in Section 22 of Title
16 21 of the Oklahoma Statutes;

17 2. Resisting executive officer as provided in Section 268 of
18 Title 21 of the Oklahoma Statutes;

19 3. Escape or attempting to escape from arrest or detention as
20 provided in Section 444 of Title 21 of the Oklahoma Statutes;

21 4. Eluding a police officer as provided in Section 540A of
22 Title 21 of the Oklahoma Statutes;

23 5. Assault and battery as provided in subsection B of Section
24 644 of Title 21 of the Oklahoma Statutes;

- 1 6. Domestic abuse as provided in subsection C of Section 644 of
2 Title 21 of the Oklahoma Statutes;
- 3 7. Assault and battery upon a police officer as provided in
4 Section 649 of Title 21 of the Oklahoma Statutes;
- 5 8. Peeping Tom as provided in subsection A of Section 1171 of
6 Title 21 of the Oklahoma Statutes;
- 7 9. Stalking as provided in Section 1173 of Title 21 of the
8 Oklahoma Statutes;
- 9 10. Misdemeanor pointing a firearm as provided in Section 1279
10 of Title 21 of the Oklahoma Statutes;
- 11 11. Unlawful carrying a concealed weapon as provided in Section
12 1289.8 of Title 21 of the Oklahoma Statutes;
- 13 12. Carrying weapons under the influence of alcohol as provided
14 in Section 1289.9 of Title 21 of the Oklahoma Statutes;
- 15 13. Transporting a loaded firearm as provided in Section
16 1289.13 of Title 21 of the Oklahoma Statutes;
- 17 14. Discharging a firearm as provided in Section 1364 of Title
18 21 of the Oklahoma Statutes;
- 19 15. Threatening to perform an act of violence as provided in
20 subsection B of Section 1378 of Title 21 of the Oklahoma Statutes;
- 21 16. Breaking and entering as provided in Section 1438 of Title
22 21 of the Oklahoma Statutes;
- 23 17. Malicious injury or destruction of property as provided in
24 Section 1760 of Title 21 of the Oklahoma Statutes;

1 18. Negligent homicide as provided in Section 11-903 of Title
2 47 of the Oklahoma Statutes;

3 19. Personal injury accident while under the influence of
4 alcohol or other intoxicating substance as provided in Section 11-
5 904 of Title 47 of the Oklahoma Statutes; and

6 20. Possession of any Schedule IV substance as provided in the
7 Uniform Controlled Dangerous Substances Act.

8 SECTION 3. AMENDATORY 74 O.S. 2001, Section 150.27a, as
9 last amended by Section 5, Chapter 441, O.S.L. 2005 (74 O.S. Supp.
10 2007, Section 150.27a), is amended to read as follows:

11 Section 150.27a A. There is hereby established within the
12 Oklahoma State Bureau of Investigation the OSBI Combined DNA Index
13 System (CODIS) Database for the purpose of collecting and storing
14 blood or saliva samples and DNA profiles, analyzing and typing of
15 the genetic markers contained in or derived from DNA, and
16 maintaining the records and samples of DNA of all individuals
17 ~~convicted of any felony offense, and of individuals required to~~
18 ~~register pursuant to the Sex Offenders Registration Act mentioned in~~
19 this section. The purpose of this database is ~~the detection or~~
20 ~~exclusion to maintain a DNA record~~ of individuals ~~who are subjects~~
21 ~~of the investigation or prosecution of sex-related crimes, violent~~
22 ~~crimes, or other~~ listed in this section, to provide investigative
23 leads to law enforcement officials regarding potential DNA matches
24 to crimes or to identify human remains in which biological evidence

1 is recovered, and such information shall be used for no other
2 purpose.

3 ~~B. Any DNA specimen taken in good faith by the Department of~~
4 ~~Corrections, its employees or contractors, and submitted to the OSBI~~
5 ~~may be included, maintained, and kept by the OSBI in a database for~~
6 ~~criminal investigative purposes despite the specimen having not been~~
7 ~~taken in strict compliance with the provisions of this section or~~
8 ~~Section 991a of Title 22 of the Oklahoma Statutes.~~

9 ~~C. Upon the request to OSBI by the federal or state authority~~
10 ~~having custody of the DNA samples shall be taken by employees or~~
11 ~~contractors of federal, state, county or municipal law enforcement~~
12 ~~or criminal justice agencies. Persons collecting blood or saliva~~
13 ~~for DNA testing pursuant to this section shall be immune from civil~~
14 ~~liabilities arising from this activity. The collecting agency shall~~
15 ~~ensure the DNA samples are mailed to the Oklahoma State Bureau of~~
16 ~~Investigation within ten (10) days of the time the sample is~~
17 ~~collected. The collecting agency shall use sample kits provided by~~
18 ~~the OSBI and pursuant to procedures promulgated by the OSBI.~~

19 ~~1. Subject to the availability of funds, any person who is~~
20 ~~arrested for a felony but is found guilty of a misdemeanor offense~~
21 ~~shall provide a DNA sample for law enforcement investigative~~
22 ~~purposes. As used in this paragraph, "misdemeanor offense" shall~~
23 ~~include the following crimes:~~

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- 1 a. outraging public decency as provided in Section 22 of
2 Title 21 of the Oklahoma Statutes,
- 3 b. resisting executive officer as provided in Section 268
4 of Title 21 of the Oklahoma Statutes,
- 5 c. escape or attempting to escape from arrest or
6 detention as provided in Section 444 of Title 21 of
7 the Oklahoma Statutes,
- 8 d. eluding a police officer as provided in Section 540A
9 of Title 21 of the Oklahoma Statutes,
- 10 e. assault and battery as provided in subsection B of
11 Section 644 of Title 21 of the Oklahoma Statutes,
- 12 f. domestic abuse as provided in subsection C of Section
13 644 of Title 21 of the Oklahoma Statutes,
- 14 g. assault and battery upon a police officer as provided
15 in Section 649 of Title 21 of the Oklahoma Statutes,
- 16 h. peeping Tom as provided in subsection A of Section
17 1171 of Title 21 of the Oklahoma Statutes,
- 18 i. stalking as provided in Section 1173 of Title 21 of
19 the Oklahoma Statutes,
- 20 j. misdemeanor pointing a firearm as provided in Section
21 1279 of Title 21 of the Oklahoma Statutes,
- 22 k. unlawful carrying a concealed weapon as provided in
23 Section 1289.8 of Title 21 of the Oklahoma Statutes,
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- 1 l. carrying weapons under the influence of alcohol as
2 provided in Section 1289.9 of Title 21 of the Oklahoma
3 Statutes,
- 4 m. transporting a loaded firearm as provided in Section
5 1289.13 of Title 21 of the Oklahoma Statutes,
- 6 n. discharging a firearm as provided in Section 1364 of
7 Title 21 of the Oklahoma Statutes,
- 8 o. threatening to perform an act of violence as provided
9 in subsection B of Section 1378 of Title 21 of the
10 Oklahoma Statutes,
- 11 p. breaking and entering as provided in Section 1438 of
12 Title 21 of the Oklahoma Statutes,
- 13 q. malicious injury or destruction of property as
14 provided in Section 1760 of Title 21 of the Oklahoma
15 Statutes,
- 16 r. negligent homicide as provided in Section 11-903 of
17 Title 47 of the Oklahoma Statutes,
- 18 s. personal injury accident while under the influence of
19 alcohol or other intoxicating substance as provided in
20 Section 11-904 of Title 47 of the Oklahoma Statutes,
21 and
- 22 t. possession of any Schedule IV substance as provided in
23 the Uniform Controlled Dangerous Substances Act;
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1 2. Any person convicted of a felony offense after January 1,
2 2006, whose sentence includes a term of incarceration shall provide
3 a DNA sample upon entering the detention facility;

4 3. Any person convicted of a felony offense after January 1,
5 2006, whose sentence does not include a term of incarceration shall
6 provide a DNA sample within thirty (30) days of sentencing to the
7 Department of Corrections, the sheriff of the county in which the
8 person was sentenced, or other peace officer as directed by the
9 court;

10 4. Any person convicted of a felony offense who is incarcerated
11 in the custody of the Department of Corrections after July 1, 1996,
12 shall provide a DNA sample prior to release;

13 5. Any person required to register pursuant to the Sex
14 Offenders Registration Act shall provide a DNA sample to the sheriff
15 of the county in which the person was sentenced or other peace
16 officer as directed by the court; and

17 6. Any person, ~~any individual~~ who was convicted of violating
18 laws of another state or the federal government, but is currently
19 incarcerated or residing in Oklahoma, shall ~~submit to~~ provide a DNA
20 ~~profiling for entry of the data into the OSBI DNA Offender Database~~
21 sample to the law enforcement agency having custody of that person.

22 This provision shall only apply when such federal or state
23 conviction carries a requirement of sex offender registration and/or

1 DNA profiling. ~~The person to be profiled shall pay a fee of One~~
2 ~~Hundred Fifty Dollars (\$150.00) to the OSBI.~~

3 C. The OSBI shall promulgate rules concerning the collection,
4 storing, expungement and dissemination of information and samples
5 for the OSBI Combined DNA Index System (CODIS) Database. The OSBI
6 shall determine the type of equipment, collection procedures, and
7 reporting documentation to be used by federal, state, county or
8 municipal law enforcement or criminal justice agencies in submitting
9 DNA samples to the OSBI. The OSBI shall provide training to
10 designated employees of these agencies in the proper methods of
11 performing the duties required by this section.

12 D. Persons subject to DNA testing shall pay a fee of One
13 Hundred Fifty Dollars (\$150.00) to the OSBI for submission to the
14 OSBI Combined DNA Index System (CODIS) in accordance with Section
15 1313.2 of Title 20 of the Oklahoma Statutes.

16 E. The OSBI Combined DNA Index System (CODIS) Database is
17 specifically exempt from any statute requiring disclosure of
18 information to the public. The DNA sample and the information
19 contained in the database is privileged from discovery and
20 inadmissible as evidence in any civil court proceeding. The
21 information in the database is confidential and shall not be
22 released to the public. Any person charged with the custody and
23 dissemination of information from the database shall not divulge or
24 disclose any such information except to federal, state, county or

1 municipal law enforcement or criminal justice agencies. Any person
2 violating the provisions of this section upon conviction shall be
3 deemed guilty of a misdemeanor punishable by imprisonment in the
4 county jail for not more than one (1) year.

5 ~~E. The OSBI shall promulgate rules concerning the collection,~~
6 ~~storing, expungement and dissemination of information and samples~~
7 ~~for the OSBI Combined DNA Index System (CODIS) Database. The OSBI~~
8 ~~shall determine the type of equipment, collection procedures, and~~
9 ~~reporting documentation to be used by the Department of Corrections~~
10 ~~or a county sheriff's office in submitting DNA samples to the OSBI~~
11 ~~in accordance with Section 991a of Title 22 of the Oklahoma~~
12 ~~Statutes. The OSBI shall provide training to designated employees~~
13 ~~of the Department of Corrections and a county sheriff's office in~~
14 ~~the proper methods of performing the duties required by this~~
15 ~~section.~~

16 F. The OSBI Combined DNA Index System (CODIS) Database may
17 include secondary databases and indexes including, but not limited
18 to:

- 19 1. Forensic index database consisting of DNA profiles from
20 unknown evidence samples;
- 21 2. Suspect index database consisting of DNA profiles from
22 samples taken from individuals as a result of criminal
23 investigations;

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1 3. ~~Convicted offender~~ Offender index database consisting of DNA
2 profiles from samples authorized pursuant to ~~subsection A~~ of this
3 section; and

4 4. Missing persons and unidentified remains index or database
5 consisting of DNA profiles from unidentified remains and relatives
6 of missing persons.

7 G. ~~Any person convicted of an offense provided in this section~~
8 ~~who is in custody after July 1, 1996, shall provide a blood or~~
9 ~~saliva sample prior to release. Every person who is convicted of an~~
10 ~~offense provided in this section whose sentence does not include a~~
11 ~~term of incarceration shall provide a blood or saliva sample as a~~
12 ~~condition of sentence~~ DNA specimen taken in good faith by federal,
13 state, county or municipal law enforcement or criminal justice
14 personnel and submitted to the OSBI may be included, maintained, and
15 kept by the OSBI in a database for criminal investigative purposes
16 despite the specimen having not been taken in strict compliance with
17 the provisions of this section.

18 SECTION 4. It being immediately necessary for the preservation
19 of the public peace, health and safety, an emergency is hereby
20 declared to exist, by reason whereof this act shall take effect and
21 be in full force from and after its passage and approval."
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1 Passed the House of Representatives the 24th day of April, 2008.

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4 Presiding Officer of the House of
Representatives
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6 Passed the Senate the ____ day of _____, 2008.

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9 Presiding Officer of the Senate
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