

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1505

By: Denney

6
7 COMMITTEE SUBSTITUTE

8 An Act relating to DNA evidence; creating Juli's Law;
9 amending 74 O.S. 2001, Section 150.27a, as last
10 amended by Section 5, Chapter 441, O.S.L. 2005 (74
11 O.S. Supp. 2008, Section 150.27a), which relates to
12 Oklahoma State Bureau of Investigation DNA Offender
13 Database; modifying purpose of DNA database
14 collection requirements; deleting authorization to
15 accept certain DNA specimens from the Department of
16 Corrections; requiring DNA samples be taken by
17 certain persons; providing immunity from civil
18 liability; directing agencies to mail DNA samples
19 within certain number of days; directing use of
20 certain kits and DNA collection procedures; providing
21 list of persons required to submit a DNA sample;
22 clarifying DNA collection guidelines; requiring
23 payment of DNA testing fee; deleting certain DNA
24 collection procedures and requirements; authorizing
acceptance of certain DNA specimens; authorizing
expungement of DNA records; providing requirements
for expungement requests; prohibiting exclusion or
suppression of DNA records under certain
circumstances; providing for noncodification; and
providing an effective date.

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

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

1 Section 2 of this act shall be known and may be cited as "Juli's
2 Law".

3 SECTION 2. AMENDATORY 74 O.S. 2001, Section 150.27a, as
4 last amended by Section 5, Chapter 441, O.S.L. 2005 (74 O.S. Supp.
5 2008, Section 150.27a), is amended to read as follows:

6 Section 150.27a A. There is hereby established within the
7 Oklahoma State Bureau of Investigation the OSBI Combined DNA Index
8 System (CODIS) Database for the purpose of collecting and storing
9 blood or saliva samples and DNA profiles, analyzing and typing of
10 the genetic markers contained in or derived from DNA, and
11 maintaining the records and samples of DNA of all individuals
12 ~~convicted of any felony offense, and of individuals required to~~
13 ~~register pursuant to the Sex Offenders Registration Act mentioned in~~
14 this section. The purpose of this database is ~~the detection or~~
15 ~~exclusion~~ to maintain a DNA record of individuals ~~who are subjects~~
16 ~~of the investigation or prosecution of sex related crimes, violent~~
17 ~~crimes, or other~~ listed in this section and provide investigative
18 leads to law enforcement officials regarding potential DNA matches
19 to crimes in which biological evidence is recovered, and such
20 information shall be used for no other purpose.

21 B. ~~Any DNA specimen taken in good faith by the Department of~~
22 ~~Corrections, its employees or contractors, and submitted to the OSBI~~
23 ~~may be included, maintained, and kept by the OSBI in a database for~~
24 ~~criminal investigative purposes despite the specimen having not been~~

1 ~~taken in strict compliance with the provisions of this section or~~
2 ~~Section 991a of Title 22 of the Oklahoma Statutes.~~

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

13 1. Any person arrested for any sex offense provided for in the
14 Sex Offenders Registration Act or for any felony offense provided
15 for in Section 13.1 of Title 21 of the Oklahoma Statutes shall
16 provide a DNA sample at the time the person is booked into the
17 detention facility or institution.

18 2. Any person convicted of a felony offense after January 1,
19 2006, whose sentence includes a term of incarceration shall provide
20 a DNA sample upon entering the detention facility.

21 3. Any person convicted of a felony offense after January 1,
22 2006, whose sentence does not include a term of incarceration shall
23 provide a DNA sample within thirty (30) days of sentencing to the
24 Department of Corrections, the sheriff of the county in which the

1 person was sentenced, or other peace officer as directed by the
2 court.

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

6 5. Any person required to register pursuant to the Sex
7 Offenders Registration Act shall provide a DNA sample to the sheriff
8 of the county in which the person was sentenced or other peace
9 officer as directed by the court.

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

15 This provision shall only apply when such federal or state
16 conviction carries a requirement of sex offender registration and/or
17 DNA profiling. ~~The person to be profiled shall pay a fee of One~~
18 ~~Hundred Fifty Dollars (\$150.00) to the OSBI.~~

19 C. The OSBI shall promulgate rules concerning the collection,
20 storing, expungement and dissemination of information and samples
21 for the OSBI Combined DNA Index System (CODIS) Database. The OSBI
22 shall determine the type of equipment, collection procedures, and
23 reporting documentation to be used by federal, state, county or
24 municipal law enforcement or criminal justice agencies in submitting

1 DNA samples to the OSBI. The OSBI shall provide training to
2 designated employees of these agencies in the proper methods of
3 performing the duties required by this section.

4 D. Persons subject to DNA testing shall pay a fee of Fifty
5 Dollars (\$50.00) to the OSBI for submission to the OSBI Combined DNA
6 Index System (CODIS) Database in accordance with Section 1313.2 of
7 Title 20 of the Oklahoma Statutes.

8 E. The OSBI Combined DNA Index System (CODIS) Database is
9 specifically exempt from any statute requiring disclosure of
10 information to the public. The DNA sample and the information
11 contained in the database is privileged from discovery and
12 inadmissible as evidence in any civil court proceeding. The
13 information in the database is confidential and shall not be
14 released to the public. Any person charged with the custody and
15 dissemination of information from the database shall not divulge or
16 disclose any such information except to federal, state, county or
17 municipal law enforcement or criminal justice agencies. Any person
18 violating the provisions of this section upon conviction shall be
19 deemed guilty of a misdemeanor punishable by imprisonment in the
20 county jail for not more than one (1) year.

21 ~~E. The OSBI shall promulgate rules concerning the collection,~~
22 ~~storing, expungement and dissemination of information and samples~~
23 ~~for the OSBI Combined DNA Index System (CODIS) Database. The OSBI~~
24 ~~shall determine the type of equipment, collection procedures, and~~

1 ~~reporting documentation to be used by the Department of Corrections~~
2 ~~or a county sheriff's office in submitting DNA samples to the OSBI~~
3 ~~in accordance with Section 991a of Title 22 of the Oklahoma~~
4 ~~Statutes. The OSBI shall provide training to designated employees~~
5 ~~of the Department of Corrections and a county sheriff's office in~~
6 ~~the proper methods of performing the duties required by this~~
7 ~~section.~~

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

11 1. Forensic index database consisting of DNA profiles from
12 unknown evidence samples;

13 2. Suspect index database consisting of DNA profiles from
14 samples taken from individuals as a result of criminal
15 investigations;

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

19 4. Missing persons and unidentified remains index or database
20 consisting of DNA profiles from unidentified remains and relatives
21 of missing persons.

22 G. ~~Any person convicted of an offense provided in this section~~
23 ~~who is in custody after July 1, 1996, shall provide a blood or~~
24 ~~saliva sample prior to release. Every person who is convicted of an~~

1 ~~offense provided in this section whose sentence does not include a~~
2 ~~term of incarceration shall provide a blood or saliva sample as a~~
3 ~~condition of sentence~~ DNA specimen taken in good faith by federal,
4 state, county or municipal law enforcement or criminal justice
5 personnel and submitted to the OSBI may be included, maintained, and
6 kept by the OSBI in a database for criminal investigative purposes
7 despite the specimen having not been taken in strict compliance with
8 the provisions of this section.

9 H. To ensure the rights of individuals are protected, a person
10 whose DNA specimen has been collected for inclusion in the DNA
11 database in accordance with this section may request expungement of
12 the DNA records under the conditions authorized in Section 18 of
13 Title 22 of the Oklahoma Statutes and pursuant to the procedures
14 required in Section 19 of Title 22 of the Oklahoma Statutes. If the
15 request for expungement of DNA records is granted by the court, the
16 court shall have the authority to order the reimbursement of all
17 filing fees, court costs and OSBI expungement fee incurred by the
18 person as a result of filing the expungement request.

19 I. Any identification, warrant, arrest, or evidentiary use of a
20 DNA match derived from the database shall not be excluded or
21 suppressed from evidence nor shall any conviction be invalidated or
22 reversed or plea set aside due to the failure to expunge DNA records
23 or a delay in expunging DNA records.

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SECTION 3. This act shall become effective November 1, 2009.

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