

1 ENGROSSED HOUSE
2 BILL NO. 3340

By: Christian of the House

and

Sykes of the Senate

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7 An Act relating to criminal procedure; amending 22
8 O.S. 2001, Section 751, as last amended by Section 2,
9 Chapter 274, O.S.L. 2009 (22 O.S. Supp. 2009, Section
10 751), which relates to admission of findings of
11 certain reports; authorizing use of certain report;
12 amending 63 O.S. 2001, Section 2-309E, as amended by
13 Section 5, Chapter 300, O.S.L. 2004 (63 O.S. Supp.
14 2009, Section 2-309E), which relates to the Uniform
15 Controlled Dangerous Substances Act; making Director
16 of the Oklahoma State Bureau of Narcotics and
17 Dangerous Drugs Control the designated keeper of
18 records for certain proceedings; and providing an
19 effective date.

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

21 SECTION 1. AMENDATORY 22 O.S. 2001, Section 751, as last
22 amended by Section 2, Chapter 274, O.S.L. 2009 (22 O.S. Supp. 2009,
23 Section 751), is amended to read as follows:

24 Section 751. A. At any hearing prior to trial or at a
forfeiture hearing:

1. A report of the findings of the laboratory of the Oklahoma
State Bureau of Investigation;

1 2. The report of investigation or autopsy report of the medical
2 examiner;

3 3. A laboratory report from a forensic laboratory operated by
4 this state or any political subdivision thereof, or from a
5 laboratory performing analysis at the request of a forensic
6 laboratory operated by this state or any political subdivision
7 thereof;

8 4. A report from the Oklahoma State Bureau of Narcotics and
9 Dangerous Drugs Control as to the existence or status of any license
10 or permit to sell, transfer, or possess precursor substances or any
11 report containing data collected and required to be transmitted by a
12 registrant to the Oklahoma State Bureau of Narcotics and Dangerous
13 Drugs Control Central Repository pursuant to the provisions of the
14 Anti-Drug Diversion Act as set forth under the Uniform Controlled
15 Dangerous Substances Act; or

16 5. A report from the Department of Public Safety as to the
17 handling and storage of evidence, which has been made available to
18 the accused by the office of the district attorney at least five (5)
19 days prior to the hearing, with reference to all or any part of the
20 evidence submitted, when certified as correct by the persons making
21 the report shall be received as evidence of the facts and findings
22 stated, if relevant and otherwise admissible in evidence. If a
23 report is deemed relevant by the state or the accused, the court
24 shall admit the report without the testimony of the person making

1 the report, unless the court, pursuant to subsection C of this
2 section, orders the person making the report to appear. If the
3 accused is not served with a report, by the district attorney,
4 within five (5) days prior to a hearing, the accused may be allowed
5 a continuance of the portion of the hearing to which the report is
6 relevant, to allow at least five (5) days' preparation subsequent to
7 the district attorney's furnishing of the report.

8 B. When any alleged controlled dangerous substance has been
9 submitted to the laboratory of the Bureau for analysis, and such
10 analysis shows that the submitted material is a controlled dangerous
11 substance, the distribution of which constitutes a felony under the
12 laws of this state, no portion of such substance shall be released
13 to any other person or laboratory without an order of a district
14 court. The defendant shall additionally be required to submit to
15 the court a procedure for transfer and analysis of the subject
16 material to ensure the integrity of the sample and to prevent the
17 material from being used in any illegal manner.

18 C. For purposes of the medical examiner's report of
19 investigation or autopsy report, or a laboratory report from a
20 forensic laboratory operated by the State of Oklahoma or any
21 political subdivision thereof or a report from the Oklahoma State
22 Bureau of Narcotics and Dangerous Drugs Control as to the existence
23 or status of any license or permit to sell, transfer, or possess
24 precursor substances:

1 1. The court, upon motion of the state or the accused, shall
2 order the attendance of any person preparing a report submitted as
3 evidence in any hearing prior to trial or forfeiture hearing, when
4 it appears there is a substantial likelihood that material evidence
5 not contained in such report may be produced by the testimony of the
6 person having prepared the report;

7 2. The motion shall be filed and notice of the hearing on the
8 motion to order the attendance of the Chief Medical Examiner, a
9 medical examiner, consultant pathologist, or anyone under their
10 supervision or control shall be given to the medical examiner's
11 office. The hearing shall be held and, if sustained, an order
12 issued not less than five (5) days prior to the time when the
13 testimony shall be required; and

14 3. If within five (5) days prior to the hearing or during a
15 hearing a motion is made pursuant to this subsection requiring a
16 person having prepared a report to testify, the court may hear a
17 report or other evidence but shall continue the hearing until such
18 time notice of the motion and hearing is given to the medical
19 examiner's office, the motion is heard, and, if sustained, testimony
20 ordered can be given.

21 SECTION 2. AMENDATORY 63 O.S. 2001, Section 2-309E, as
22 amended by Section 5, Chapter 300, O.S.L. 2004 (63 O.S. Supp. 2009,
23 Section 2-309E), is amended to read as follows:

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1 Section 2-309E. A. All access to information in the central
2 repository shall be controlled by and made through the Oklahoma
3 State Bureau of Narcotics and Dangerous Drugs Control.

4 B. For the purposes of court proceedings, the Director of the
5 Bureau, or designee, shall be the designated keeper of the records.

6 SECTION 3. This act shall become effective November 1, 2010.

7 Passed the House of Representatives the 2nd day of March, 2010.

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Presiding Officer of the House of
11 Representatives

12 Passed the Senate the ____ day of _____, 2010.

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Presiding Officer of the Senate

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