

THE HOUSE OF REPRESENTATIVES
Monday, February 16, 2009

Committee Substitute for
House Bill No. 1505

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1505 - By: DENNEY, BILLY AND NELSON of the House and CRAIN of the Senate.

An Act relating to DNA evidence; creating Juli's Law; amending 74 O.S. 2001, Section 150.27a, as last amended by Section 5, Chapter 441, O.S.L. 2005 (74 O.S. Supp. 2008, Section 150.27a), which relates to Oklahoma State Bureau of Investigation DNA Offender Database; modifying purpose of DNA database collection requirements; deleting authorization to accept certain DNA specimens from the Department of Corrections; requiring DNA samples be taken by certain persons; providing immunity from civil liability; directing agencies to mail DNA samples within certain number of days; directing use of certain kits and DNA collection procedures; providing list of persons required to submit a DNA sample; clarifying DNA collection guidelines; requiring payment of DNA testing fee; deleting certain DNA 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:

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

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

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

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

13 B. ~~Any DNA specimen taken in good faith by the Department of Corrections, its~~
14 ~~employees or contractors, and submitted to the OSBI may be included, maintained, and~~
15 ~~kept by the OSBI in a database for criminal investigative purposes despite the specimen~~
16 ~~having not been taken in strict compliance with the provisions of this section or Section~~
17 ~~991a of Title 22 of the Oklahoma Statutes.~~

18 C. ~~Upon the request to OSBI by the federal or state authority having custody of the~~
19 DNA samples shall be taken by employees or contractors of federal, state, county or
20 municipal law enforcement or criminal justice agencies. Persons collecting blood or
21 saliva for DNA testing pursuant to this section shall be immune from civil liabilities
22 arising from this activity. The collecting agency shall ensure the DNA samples are

1 mailed to the Oklahoma State Bureau of Investigation within ten (10) days of the time
2 the sample is collected. The collecting agency shall use sample kits provided by the OSBI
3 and pursuant to procedures promulgated by the OSBI.

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

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

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

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

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

21 6. Any person, ~~any individual~~ who was convicted of violating laws of another state
22 or the federal government, but is currently incarcerated or residing in Oklahoma, shall

1 ~~submit to provide a DNA profiling for entry of the data into the OSBI DNA Offender~~
2 ~~Database sample to the law enforcement agency having custody of that person.~~ This
3 provision shall only apply when such federal or state conviction carries a requirement of
4 sex offender registration and/or DNA profiling. ~~The person to be profiled shall pay a fee~~
5 ~~of One Hundred Fifty Dollars (\$150.00) to the OSBI.~~

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

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

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

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

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

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

- 15 1. Forensic index database consisting of DNA profiles from unknown evidence
16 samples;
- 17 2. Suspect index database consisting of DNA profiles from samples taken from
18 individuals as a result of criminal investigations;
- 19 3. ~~Convicted offender~~ Offender index database consisting of DNA profiles from
20 samples authorized pursuant to ~~subsection A~~ of this section; and
- 21 4. Missing persons and unidentified remains index or database consisting of DNA
22 profiles from unidentified remains and relatives of missing persons.

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

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

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

- 1 SECTION 3. This act shall become effective November 1, 2009.
- 2 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02-12-09 - DO PASS,
- 3 As Amended and Coauthored.