

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2652

6 By: Denney

7 COMMITTEE SUBSTITUTE

8 An Act relating to criminal procedure; providing
9 short title; creating the Oklahoma Innocence
10 Collaboration Program; stating duration of program;
11 defining terms; creating program within the Oklahoma
12 State Bureau of Investigation; authorizing Bureau to
13 collaborate with public and private entities; stating
14 purpose of program; authorizing Bureau to accept or
15 decline requests for forensic testing; providing
16 measures for testing physical evidence; directing law
17 enforcement agencies to provide certain records;
18 providing for the confidentiality of records;
19 exempting records from the Oklahoma Open Records Act;
20 providing compensation for the search and copy of
21 records; providing for codification; and providing an
22 effective date.

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

24 SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1373 of Title 22, unless there
is created a duplication in numbering, reads as follows:

A. Sections 1 through 3 of this act shall be known and may be
cited as the "Oklahoma Innocence Collaboration Act".

1 B. There is hereby created the Oklahoma Innocence Collaboration
2 Program to continue until July 1, 2018.

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1373.1 of Title 22, unless there
5 is created a duplication in numbering, reads as follows:

6 As used in this section:

7 1. "Collaboration project participants" means a public or
8 private higher education institution or agency within Oklahoma
9 deemed appropriate by the Oklahoma State Bureau of Investigation to
10 investigate, consult and screen scientific evidence that may
11 conclusively prove that a person convicted of and presently
12 incarcerated on a felony offense upon which the forensic testing is
13 sought is factually innocent;

14 2. "Forensic laboratory" means a laboratory operated by the
15 Oklahoma State Bureau of Investigation, the Federal Bureau of
16 Investigation, or a privately owned laboratory whose experts perform
17 forensic tests and provide expert opinion testimony in a court of
18 law;

19 3. "Forensic testing" means a medical, chemical, toxicological,
20 ballistics, or other expert examination or test performed on
21 physical evidence, including deoxyribonucleic acid (DNA) evidence to
22 determine the association of evidence to a crime;

23 4. "Physical evidence" means a tangible object or substance
24 related to a crime; and

1 5. "Law enforcement agency" means a state, local or municipal
2 agency that arrests, detains or investigates criminal cases.

3 SECTION 3. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1373.2 of Title 22, unless there
5 is created a duplication in numbering, reads as follows:

6 A. The Oklahoma Innocence Collaboration Program shall be
7 created within the Oklahoma State Bureau of Investigation. The
8 Bureau is hereby authorized to collaborate with appropriate public
9 or private higher education institutions, law enforcement agencies,
10 and forensic laboratories to investigate, consult and screen
11 scientific evidence that may conclusively prove that a person
12 convicted of and presently incarcerated on a felony offense upon
13 which the forensic testing is sought is factually innocent. Factual
14 innocence requires the defendant to establish that no reasonable
15 jury would have found the defendant guilty in light of the results
16 of the new evidence.

17 B. Upon request of a collaborative partner, the Oklahoma State
18 Bureau of Investigation is authorized to perform the necessary
19 forensic testing of physical and biological evidence requested by
20 collaboration project participants to determine whether such
21 evidence of factual innocence exists. The Bureau may decline for
22 any reason at the discretion of the Bureau a request to perform the
23 forensic testing.

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1 C. Any type of forensic testing available to the Oklahoma State
2 Bureau of Investigation may be used by the Oklahoma Innocence
3 Collaboration Program to accomplish the purposes of this act. When
4 forensic analysis will consume the physical evidence collected, the
5 following measures shall be taken:

6 1. Samples must be of sufficient quantity to allow testing by
7 both the prosecution and the defense;

8 2. Neither the prosecution nor defense shall consume the entire
9 sample in testing in the absence of a court order or agreement by
10 both parties allowing the sample to be entirely consumed in testing;

11 3. When permissible, deoxyribonucleic acid (DNA) profiles
12 obtained as a result of testing performed pursuant to this act shall
13 be entered into the OSBI Combined DNA Index System (CODIS) Database
14 as established pursuant to the provisions of Section 150.27a of
15 Title 74 of the Oklahoma Statutes; and

16 4. Nothing in this act shall require any person other than the
17 person seeking assistance of the Oklahoma Innocence Collaboration
18 Program to provide a sample from his or her body for purposes of
19 forensic testing.

20 D. All municipal, county, and state law enforcement agencies or
21 the Office of the Chief Medical Examiner shall provide copies to
22 collaboration project participants of the Oklahoma Innocence
23 Collaboration Program of forensic laboratory examination records or
24 other law enforcement investigative records regarding cases accepted

1 for investigation by the Oklahoma Innocence Collaboration Program.
2 The records shall be confidential and shall not be subject to the
3 provisions of the Oklahoma Open Records Act. The records shall be
4 used only for investigating, screening, and presenting claims of
5 factual innocence. The collaboration project participants of the
6 Oklahoma Innocence Collaboration Program requesting such records
7 shall compensate the agency that provides the records in accordance
8 with the fees set forth in the Oklahoma Open Records Act for any
9 search and copy costs.

10 SECTION 4. This act shall become effective November 1, 2012.

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