

1 STATE OF OKLAHOMA

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

3 SUBCOMMITTEE
4 RECOMMENDATION

5 FOR

6 HOUSE BILL NO. 2652

7 By: Denney

8 SUBCOMMITTEE RECOMMENDATION

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

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

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. "Forensic laboratory" means a laboratory operated by the
8 Oklahoma State Bureau of Investigation, the Federal Bureau of
9 Investigation, or a privately owned laboratory whose experts perform
10 forensic tests and provide expert opinion testimony in a court of
11 law;

12 2. "Forensic testing" means a medical, chemical, toxicological,
13 ballistics, or other expert examination or test performed on
14 physical evidence, including deoxyribonucleic acid (DNA) evidence to
15 determine the association of evidence to a crime;

16 3. "Physical evidence" means a tangible object or substance
17 related to a crime; and

18 4. "Law enforcement agency" means a state, local or municipal
19 agency that arrests, detains or investigates criminal cases.

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

23 A. The Oklahoma Innocence Collaboration Program shall be
24 created within the Oklahoma State Bureau of Investigation. The

1 Bureau is hereby authorized to collaborate with appropriate public
2 or private higher education institutions, law enforcement agencies,
3 and forensic laboratories to investigate, consult and screen
4 scientific evidence that may conclusively prove that a person
5 convicted of and presently incarcerated on a felony offense upon
6 which the forensic testing is sought is factually innocent. Factual
7 innocence requires the defendant to establish that no reasonable
8 jury would have found the defendant guilty in light of the results
9 of the new evidence.

10 B. Upon request of a collaborative partner, the Oklahoma State
11 Bureau of Investigation is authorized to perform the necessary
12 forensic testing of physical and biological evidence to determine
13 whether such evidence of factual innocence exists. The Bureau may
14 decline for any reason at the discretion of the Bureau a request to
15 perform the forensic testing.

16 C. Any type of forensic testing available to the Oklahoma State
17 Bureau of Investigation may be used by the Oklahoma Innocence
18 Collaboration Program to accomplish the purposes of this act. When
19 forensic analysis will consume the physical evidence collected, the
20 following measures shall be taken:

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

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

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

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

13 D. All municipal, county, and state law enforcement agencies or
14 the Office of the Chief Medical Examiner shall provide copies to the
15 Oklahoma Innocence Collaboration Program of forensic laboratory
16 examination records or other law enforcement investigative records
17 regarding cases accepted for investigation by the Oklahoma Innocence
18 Collaboration Program. The records shall be confidential and shall
19 not be subject to the provisions of the Oklahoma Open Records Act.
20 The records shall be used only for investigating, screening, and
21 presenting claims of factual innocence. The Oklahoma Innocence
22 Collaboration Program shall compensate the agency that provides the
23 records in accordance with the fees set forth in the Oklahoma Open
24 Records Act for any search and copy costs.

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

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