

1 **SENATE FLOOR VERSION**

2 April 9, 2012

3 As Amended

4 ENGROSSED HOUSE

5 BILL NO. 2652

6 By: Denney, Billy, McDaniel
7 (Jeannie), Shelton and
8 Nollan of the House

9 and

10 Halligan of the Senate

11
12 **[criminal procedure - Oklahoma Innocence
13 Collaboration Program - codification - effective
14 date]**

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

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

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

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

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

As used in this section:

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

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

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

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

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

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

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

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

19 C. Any type of forensic testing available to the Oklahoma State
20 Bureau of Investigation may be used by the Oklahoma Innocence
21 Collaboration Program to accomplish the purposes of this act. When
22 forensic analysis will consume the physical evidence collected, the
23 following measures shall be taken:
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1 1. Samples must be of sufficient quantity to allow testing by
2 both the prosecution and the defense;

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

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

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

15 D. All municipal, county, and state law enforcement agencies or
16 the Office of the Chief Medical Examiner shall provide copies to
17 collaboration project participants of the Oklahoma Innocence
18 Collaboration Program of forensic laboratory examination records or
19 other law enforcement investigative records regarding cases accepted
20 for investigation by the Oklahoma Innocence Collaboration Program.
21 The records shall be confidential and shall not be subject to the
22 provisions of the Oklahoma Open Records Act. The records shall be
23 used only for investigating, screening, and presenting claims of
24 factual innocence. The collaboration project participants of the

1 Oklahoma Innocence Collaboration Program requesting such records
2 shall compensate the agency that provides the records in accordance
3 with the fees set forth in the Oklahoma Open Records Act for any
4 search and copy costs.

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

6 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 4-4-12 - DO
7 PASS, As Amended.

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