

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 HOUSE BILL 1800

By: Tibbs

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6 AS INTRODUCED

7 An Act relating to state government; amending Section
8 150.5, as last amended by Section 1, Chapter 240,
9 O.S.L. 2010 and Section 3, Chapter 351, O.S.L. 2002,
10 as amended by Section 1, Chapter 203, O.S.L. 2003 (74
11 O.S. Supp. 2010, Sections 150.5 and 150.37), which
12 relate to investigations and the Forensic Laboratory
13 Accreditation Act; modifying confidentiality
14 requirements for disclosing certain records;
15 modifying and adding definitions; deleting certain
16 definitions; deleting certain requirements and
17 exceptions for forensic laboratories; modifying
18 accreditation guidelines; and providing an effective
19 date.

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

21 SECTION 1. AMENDATORY 74 O.S. 2001, Section 150.5, as
22 last amended by Section 1, Chapter 240, O.S.L. 2010 (74 O.S. Supp.
23 2010, Section 150.5), is amended to read as follows:

24 Section 150.5 A. 1. Oklahoma State Bureau of Investigation
investigations not covered under Section 150.2 of this title shall
be initiated at the request of the following persons:

- a. the Governor,
- b. the Attorney General,

- 1 c. the Council on Judicial Complaints upon a vote by a
2 majority of the Council,
- 3 d. the chair of any Legislative Investigating Committee
4 which has been granted subpoena powers by resolution,
5 upon authorization by a vote of the majority of the
6 Committee,
- 7 e. the Director of the Department of Human Services, or
8 designee, as authorized by Section 1-2-105 of Title
9 10A of the Oklahoma Statutes, or
- 10 f. a district court judge as authorized by Section 1-2-
11 103 of Title 10A of the Oklahoma Statutes.

12 2. Requests for investigations shall be submitted in writing
13 and shall contain specific allegations of wrongdoing under the laws
14 of the State of Oklahoma.

15 B. The Governor may initiate special background investigations
16 with the written consent of the person who is the subject of the
17 investigation.

18 C. The chair of any Senate committee which is fulfilling the
19 statutory responsibility for approving nominations made by the
20 Governor may, upon a vote by a majority of the committee and with
21 the written consent of the person who is to be the subject of the
22 investigation, initiate a special background investigation of any
23 nominee for the Oklahoma Horse Racing Commission as established by
24 Section 201 of Title 3A of the Oklahoma Statutes or any nominee for

1 the Board of Trustees of the Oklahoma Lottery Commission as
2 established by Section 704 of Title 3A of the Oklahoma Statutes.
3 The Bureau shall submit a report to the committee within thirty (30)
4 days of the receipt of the request. Any consideration by the
5 committee of a report from the Bureau shall be for the exclusive use
6 of the committee and shall be considered only in executive session.

7 D. 1. All records relating to any investigation being
8 conducted by the Bureau, including any records of laboratory
9 services provided to law enforcement agencies pursuant to paragraph
10 1 of Section 150.2 of this title, shall be confidential and shall
11 not be open to the public or to the Commission except as provided in
12 Section 150.4 of this title; provided, however, officers and agents
13 of the Bureau may disclose, at the discretion of the Director, such
14 investigative information to:

- 15 a. officers and agents of federal, state, county, or
16 municipal law enforcement agencies and to district
17 attorneys, in the furtherance of criminal
18 investigations within their respective jurisdictions,
19 b. employees of the Department of Human Services in the
20 furtherance of child abuse investigations, and
21 c. appropriate accreditation bodies for the purposes of
22 the Bureau's obtaining or maintaining accreditation.

23 2. Any unauthorized disclosure of any information contained in
24 the confidential files of the Bureau shall be a misdemeanor. The

1 person or entity authorized to initiate investigations in this
2 section, and the Attorney General in the case of investigations
3 initiated by the Insurance Commissioner, shall receive a report of
4 the results of the requested investigation. The person or entity
5 requesting the investigation may give that information only to the
6 appropriate prosecutorial officer or agency having statutory
7 authority in the matter if that action appears proper from the
8 information contained in the report, and shall not reveal or give
9 such information to any other person or agency. Violation hereof
10 shall be deemed willful neglect of duty and shall be grounds for
11 removal from office.

12 E. It shall not be a violation of this section to reveal
13 otherwise confidential information to outside agencies or
14 individuals who are providing interpreter services, questioned
15 document analysis, laboratory services, or other specialized
16 services that are necessary in the assistance of Bureau
17 investigations. Individuals or agencies receiving the confidential
18 and investigative information or records or results of laboratory
19 services provided to the Bureau by those agencies or individuals,
20 shall be subject to the confidentiality provisions and requirements
21 established in subsection D of this section.

22 F. It shall not be a violation of this section to reveal for
23 training or educational purposes otherwise confidential information
24 from records relating to any investigation previously conducted by

1 the Bureau, including any records of laboratory services provided to
2 law enforcement agencies pursuant to paragraph 1 of Section 150.2 of
3 this title, so long as ten (10) or more years have passed since the
4 production of the information or record.

5 G. It shall not be a violation of this section to reveal
6 otherwise confidential information from records relating to any
7 investigation being conducted by the Bureau, including any records
8 of laboratory services provided to law enforcement agencies pursuant
9 to paragraph 1 of Section 150.2 of this title or to the public,
10 provided, release of the confidential information has been
11 authorized by the Director of the Bureau for the purposes of
12 developing or obtaining further information reasonably necessary to
13 the successful conclusion of a criminal investigation being
14 conducted by the Bureau or authorized by the Director of the Bureau
15 for the purpose of advising crime victims or family representatives
16 of homicide victims regarding the status of a pending investigation.

17 H. The State Treasurer shall initiate a complete background
18 investigation of the positions with the written consent of the
19 persons who are the subject of the investigation pursuant to
20 subsection I of Section 71.1 of Title 62 of the Oklahoma Statutes.
21 The Bureau shall advise the State Treasurer and the Cash Management
22 and Investment Oversight Commission in writing of the results of the
23 investigation.

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1 SECTION 2. AMENDATORY Section 3, Chapter 351, O.S.L.
2 2002, as amended by Section 1, Chapter 203, O.S.L. 2003 (74 O.S.
3 Supp. 2010, Section 150.37), is amended to read as follows:

4 Section 150.37 A. For purposes of this act:

5 1. ~~"ASCLD/LAB" shall mean the American Society of Crime~~
6 ~~Laboratory Directors/Laboratory Accreditation Board;~~

7 2. "ABFT" shall mean the American Board of Forensic Toxicology,
8 an accrediting body for toxicology;

9 2. "Accredited" shall mean recognized formally by an
10 accrediting body as meeting or exceeding applicable quality
11 standards;

12 3. "Accrediting body" shall mean a nationally recognized
13 organization that has developed and maintained an independent
14 system, based upon ISO/IEC 17025 standards, for providing
15 laboratories with an impartial review of laboratory operations and
16 that provides formal recognition or certification to laboratories
17 who demonstrate continued compliance with those standards and other
18 supplemental forensic standards which are specific to the
19 maintenance and testing of forensic evidence;

20 4. "ISO/IEC 17025" shall mean the International Organization of
21 Standards/International Electrotechnical Commission standard 17025
22 that is published by the International Organization for
23 Standardization and the International Electrotechnical Commission

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1 and included as a standard in general requirements for the
2 competence of testing and calibration laboratories;

3 ~~3- 5. "Forensic laboratory" shall mean a laboratory operated by~~
4 ~~the state or any unit of municipal, county, city or other local~~
5 ~~government that examines physical evidence in criminal matters and~~
6 ~~provides opinion testimony in a court of law in forensic disciplines~~
7 ~~accredited by ASCLD/LAB;~~

8 ~~4. "Technical peer review system" shall mean a system whereby~~
9 ~~the case work by an employee of a forensic laboratory shall be~~
10 ~~reviewed for technical correctness by a qualified peer;~~

11 ~~5. "Proficiency testing program" shall mean a program whereby~~
12 ~~the competency of analysis and the quality of performance of a~~
13 ~~laboratory is evaluated by external testing;~~

14 6. "Toxicology analysis" shall mean a laboratory analysis
15 whereby biological samples are tested for alcohol and/or other toxic
16 or intoxicating substances; ~~and~~

17 7. "IAI" shall mean the International Association for
18 Identification; and

19 8. "Supplemental forensic standards" shall mean additional
20 requirements specifically related to maintenance and analysis of
21 forensic evidence required in addition to the calibration and
22 testing requirements of ISO/IEC 17025 standards.

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1 ~~B. Effective January 1, 2003, all forensic laboratories as~~
2 ~~defined in this act shall have a technical peer review system~~
3 ~~sufficient to meet or exceed ASCLD/LAB accreditation standards.~~

4 ~~This section shall not apply to:~~

5 ~~1. Breath testing for alcohol;~~

6 ~~2. Field testing, crime scene processing, crime scene evidence~~
7 ~~collection, searches, examinations or enhancements of digital~~
8 ~~evidence, and crime scene reconstruction;~~

9 ~~3. Latent print identification performed by an IAI certified~~
10 ~~latent print examiner;~~

11 ~~4. Marihuana identification using methods generally accepted in~~
12 ~~the forensic field that are approved by a forensic laboratory~~
13 ~~accredited by ASCLD/LAB in controlled substances; and~~

14 ~~5. Laboratories that exclusively and solely perform forensic~~
15 ~~toxicology analysis. Such laboratories shall have a technical peer~~
16 ~~review system sufficient to meet or exceed either ASCLD/LAB or ABFT~~
17 ~~accreditation standards.~~

18 ~~C. Effective January 1, 2004, all forensic laboratories as~~
19 ~~defined in this act shall have a proficiency testing program~~
20 ~~sufficient to meet or exceed ASCLD/LAB accreditation standards for~~
21 ~~such systems. This subsection shall not apply to:~~

22 ~~1. Breath testing for alcohol;~~

1 ~~2. Field testing, crime scene processing, crime scene evidence~~
2 ~~collection, searches, examinations or enhancements of digital~~
3 ~~evidence, and crime scene reconstruction;~~

4 ~~3. Latent print identification performed by an IAI certified~~
5 ~~latent print examiner;~~

6 ~~4. Marihuana identification using methods generally accepted in~~
7 ~~the forensic field that are approved by a forensic laboratory~~
8 ~~accredited by ASCLD/LAB in controlled substances; and~~

9 ~~5. Laboratories that exclusively and solely perform forensic~~
10 ~~toxicology analysis. Such laboratories shall have a proficiency~~
11 ~~testing program sufficient to meet or exceed either ASCLD/LAB or~~
12 ~~ABFT accreditation standards.~~

13 ~~D.~~ Effective July 1, 2005, all forensic laboratories as defined
14 in this act established or operating prior to that date shall be
15 ASCLD/LAB accredited. The following exceptions shall apply:

16 1. Breath testing for alcohol;

17 2. Field testing, crime scene processing, crime scene evidence
18 collection, searches, examinations or enhancements of digital
19 evidence, and crime scene reconstruction;

20 3. Latent print identification performed by an IAI certified
21 latent print examiner;

22 4. Latent print identification performed by a latent print
23 examiner not yet eligible for IAI certification in latent prints,
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1 provided they achieve IAI certification within six (6) months of
2 first eligibility;

3 5. Marihuana identification using methods generally accepted in
4 the forensic field that are approved by a forensic laboratory
5 accredited by ~~ASCLD/LAB~~ in controlled substances;

6 6. All forensic laboratories established on or after July 1,
7 2005, as defined in this act, shall be ~~ASCLD/LAB~~ accredited within
8 two (2) years of establishment; and

9 7. Forensic laboratories that exclusively and solely perform
10 forensic toxicology analysis may meet this requirement by being
11 either ~~ASCLD/LAB~~ accredited through an accrediting body as defined
12 in this section or accredited by ABFT ~~accredited~~.

13 ~~E. C.~~ On or after July 1, 2005, testimony, results, reports, or
14 evidence of forensics analysis produced on behalf of the prosecution
15 in a criminal trial ~~in forensic disciplines accredited by ASCLD/LAB~~
16 shall be done by an ~~ASCLD/LAB~~ accredited forensic laboratory. This
17 section shall not apply to:

18 1. Testimony, results, reports, or evidence of forensic
19 analysis produced by a forensic laboratory established after July 1,
20 2005, and not yet required to be accredited as set forth in
21 subsection ~~D~~ B of this section;

22 2. Testimony, results, reports, or evidence of forensic
23 analysis produced by a forensic laboratory prior to July 1, 2005.

24 Such testimony, results, reports, or evidence need not be performed

1 by an accredited forensic laboratory and may be produced or
2 presented on behalf of the prosecution in a criminal trial after
3 July 1, 2005, as long as the forensic analysis was produced prior to
4 that date;

5 3. Testimony, results, reports, or evidence of breath testing
6 for alcohol;

7 4. Testimony, results, reports, or evidence of field testing,
8 crime scene processing, crime scene evidence collection, searches,
9 examinations or enhancements of digital evidence, and crime scene
10 reconstruction;

11 5. Testimony, results, reports, or evidence of latent print
12 identification performed by an IAI certified latent print examiner;

13 6. Testimony, results, reports, or evidence of latent print
14 identification performed by a latent print examiner not yet eligible
15 for IAI certification in latent prints, provided they achieve IAI
16 certification within six (6) months of first eligibility; and

17 7. Testimony, results, reports, or evidence of marijuana
18 identification using methods generally accepted in the forensic
19 field that are approved by a forensic laboratory accredited by
20 ~~ASCLD/LAB~~ in controlled substances;

21 ~~8. Testimony, results, reports, or evidence of forensic~~
22 ~~toxicology analysis performed by laboratories that exclusively and~~
23 ~~solely perform such forensic toxicology analysis. Such laboratories~~
24 ~~may produce and present such testimony, results, reports, or~~

1 ~~evidence if it is either ASCLD/LAB accredited or ABFT accredited,~~
2 and

3 ~~9. Testimony, results, reports, or evidence of forensic~~
4 ~~analysis in forensic disciplines which are optional for a laboratory~~
5 ~~seeking ASCLD/LAB accreditation.~~

6 SECTION 3. This act shall become effective November 1, 2011.

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8 53-1-5517 GRS 12/21/10

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