

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2652

By: Denney

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5  
6 AS INTRODUCED

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

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

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

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

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

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

4 As used in this section:

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

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

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

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

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

21 A. The Oklahoma Innocence Collaboration Program shall be  
22 created within the Oklahoma State Bureau of Investigation. The  
23 Bureau is hereby authorized to collaborate with appropriate public  
24 or private higher education institutions or agencies within Oklahoma

1 to investigate, consult and screen scientific evidence that may  
2 conclusively prove that a person convicted of and presently  
3 incarcerated on a felony offense upon which the forensic testing is  
4 sought is factually innocent. Factual innocence requires the  
5 defendant to establish that no reasonable jury would have found the  
6 defendant guilty beyond a reasonable doubt in light of the results  
7 of the new scientific evidence.

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

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

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

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

23 3. When permissible, deoxyribonucleic acid (DNA) profiles  
24 obtained as a result of testing performed pursuant to this act shall

1 be entered into the OSBI Combined DNA Index System (CODIS) Database  
2 authorized by Section 150.27a of Title 74 of the Oklahoma Statutes;  
3 and

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

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

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

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