

<DateSubmitted>

HOUSE OF REPRESENTATIVES
CONFERENCE COMMITTEE REPORT

Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB2652

By: Denney of the House and Halligan of the Senate

Title: Criminal procedure; creating the Oklahoma Innocence Collaboration Program; effective date.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the House concurs with Senate Amendments No. 1 and No. 2;
2. That the Senate recede from its Senate Amendment No. 3; and
3. That the Title be restored to read as follows:

“An Act relating to criminal procedure; providing short title; creating the Oklahoma Innocence Collaboration Program; stating duration of program; defining terms; creating program within the Oklahoma State Bureau of Investigation; authorizing Bureau to collaborate with public and private entities; stating purpose of program; authorizing Bureau to accept or decline requests for forensic testing; providing measures for testing physical evidence; providing for codification; and providing an effective date.”

Respectfully submitted,

House Action _____ Date _____ Senate Action _____ Date _____

SENATE CONFEREES

- Ballenger _____
- Branan _____
- Brinkley _____
- Burrage _____
- Crain _____
- David _____
- Ford _____
- Griffin _____
- Halligan _____
- Ivester _____
- Jolley _____
- Justice _____
- Marlatt _____
- Mazzei _____
- McAffrey _____
- Newberry _____
- Nichols _____
- Paddack _____
- Stanislawski _____
- Sykes _____
- Wilson _____
- Wyrick _____
- _____
- _____

1 ENGROSSED SENATE AMENDMENTS
TO

2 ENGROSSED HOUSE
3 BILL NO. 2652

By: Denney, Billy, McDaniel
(Jeanie), Shelton and
Nollan of the House

4
5 and

Halligan of the Senate
6

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.

22 AUTHOR: Add the following Senate Coauthor: Johnson (Constance)

23 AMENDMENT NO. 1. Page 3, line 17, after the word "partner" and
24 before the comma, insert the language "and
approval of a retired district court judge
appointed annually by the Governor"

AMENDMENT NO. 2. Page 4, line 20, through page 5, line 9, delete
all language

AMENDMENT NO. 3. Page 1, strike the title to read

"[criminal procedure - Oklahoma Innocence
Collaboration Program - codification - effective
date]"

and when the title is restored, amend the title to
conform

1 ENGROSSED HOUSE
2 BILL NO. 2652

By: Denney, Billy, McDaniel
(Jeanie), Shelton and
Nollan of the House

3
4 and

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6
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
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19 providing compensation for the search and copy of
20 records; providing for codification; and providing an
21 effective date.

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

23 SECTION 1. NEW LAW A new section of law to be codified
24 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
23 the 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.

11 Passed the House of Representatives the 7th day of March, 2012.

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14 _____
Presiding Officer of the House of
Representatives

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16 Passed the Senate the ____ day of _____, 2012.

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19 _____
Presiding Officer of the Senate

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