

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 1014

By: Bush

COMMITTEE SUBSTITUTE

An Act relating to criminal procedure; amending Section 1, Chapter 181, O.S.L. 2016 (22 O.S. Supp. 2018, Section 210), which relates to deoxyribonucleic acid (DNA) testing upon arrest; clarifying purpose for collecting DNA samples; designating persons authorized to collect DNA samples; deleting DNA collection exemption; directing facilities that utilize Rapid DNA technology to use certain collection instruments; prohibiting facilities that utilize Rapid DNA technology from retaining, testing or storing DNA samples after completion of matching process; making certain acts unlawful; providing penalty; adding exception for DNA sample destruction requirement; and providing an effective date.

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

SECTION 1. AMENDATORY Section 1, Chapter 181, O.S.L. 2016 (22 O.S. Supp. 2018, Section 210), is amended to read as follows:

Section 210. A. Subject to the availability of funds, a person eighteen (18) years of age or older who is arrested for the commission of a felony under the laws of this state or any other

1 jurisdiction shall, upon being booked into a jail or detention
2 facility, submit to deoxyribonucleic acid (DNA) sample collection
3 for testing for ~~law enforcement~~ DNA-identification-matching purposes
4 in accordance with Section 150.27a of Title 74 of the Oklahoma
5 Statutes and the rules promulgated by the Oklahoma State Bureau of
6 Investigation (OSBI) for the OSBI Combined DNA Index System (CODIS)
7 Database. DNA samples shall be collected by ~~the arresting authority~~
8 trained medical personnel, law enforcement or employees or medical
9 contractors of these organizations as qualified pursuant to
10 subsection B of this section. ~~Convicted or arrested individuals who~~
11 ~~have previously submitted to DNA testing pursuant to this section or~~
12 ~~Section 991a of Title 22 of the Oklahoma Statutes and for whom a~~
13 ~~valid sample is on file in the OSBI CODIS Database shall not be~~
14 ~~required to submit to additional testing.~~

15 B. Samples of blood or saliva for DNA testing or for DNA-
16 identification-matching purposes required by subsection A of this
17 section shall be taken by ~~peace officers, the county sheriff~~ trained
18 medical personnel, law enforcement or employees or medical
19 contractors of the county sheriff's office these organizations. The
20 individuals shall be properly trained to collect blood or saliva
21 samples. Persons collecting blood or saliva for DNA testing or for
22 DNA-identification-matching purposes pursuant to this section shall
23 be immune from civil liabilities arising from this activity. All
24 collectors of DNA samples shall ensure the collected samples are

1 mailed or delivered to the OSBI within ten (10) days after the DNA
2 sample is collected from the person. ~~All collectors of DNA samples~~
3 ~~shall use~~ using sample kits provided by the OSBI and procedures
4 promulgated by the OSBI, or if the jail, detention facility or other
5 designated facility is using Rapid DNA technology, the collector
6 shall use the provided collection instruments. Once the DNA-
7 identification-matching process has concluded and a sample has been
8 mailed or delivered to the OSBI, the collector shall discard the
9 Rapid DNA sample taken in the jail, detention facility or other
10 designated facility.

11 If a jail, detention facility or other designated facility is
12 using Rapid DNA technology to take the DNA sample for DNA
13 identification purposes, said sample shall not be retained, tested
14 or stored after completion of the Rapid DNA identification process.
15 Any person charged with the custody and dissemination of DNA samples
16 and profiles shall not divulge or disclose any such information
17 except to federal, state, county or municipal law enforcement or
18 criminal justice agencies nor shall the person tamper with the
19 samples and profiles taken. Any person violating the provisions of
20 this section shall, upon conviction, be guilty of a misdemeanor
21 punishable by imprisonment in the county jail for not more than one
22 (1) year.

23 C. A DNA sample shall not be analyzed and shall be destroyed
24 unless one of the following conditions has been met:

1 1. The arrest was made upon a valid felony arrest or warrant;

2 2. The person has appeared before a judge or magistrate judge
3 who made a finding that there was probable cause for the arrest; ~~or~~

4 3. The person posted bond or was released prior to appearing
5 before a judge or magistrate judge and then failed to appear for a
6 scheduled hearing; or

7 4. The DNA sample is provided as a condition of a plea
8 agreement.

9 D. All DNA samples, records and identifiable information
10 generated pursuant to the provisions of this section shall be
11 automatically expunged from the OSBI Combined DNA Index System
12 (CODIS) Database under the following circumstances:

13 1. The felony offense for which the person was arrested does
14 not result in charges either by information or indictment and the
15 statute of limitations has expired;

16 2. The state voluntarily dismissed the felony charge filed
17 against the person; or

18 3. The court dismissed the felony charge filed against the
19 person.

20 The Oklahoma State Bureau of Investigation shall promulgate
21 rules establishing procedures relating to the automatic expungement
22 of DNA samples, records and identifiable information collected under
23 the provisions of this section. Fees related to the expungement of
24 DNA samples, records and identifiable information shall not be

1 assessed for persons who qualify for an automatic expungement under
2 the provisions of this subsection.

3 SECTION 2. This act shall become effective November 1, 2019.

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