

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

HOUSE BILL 1014

By: Bush

AS INTRODUCED

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; 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 jurisdiction shall, upon being booked into a jail or detention facility, submit to deoxyribonucleic acid (DNA) sample collection

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

13 B. Samples of blood or saliva for DNA testing or for DNA-
14 identification-matching purposes required by subsection A of this
15 section shall be taken by ~~peace officers, the county sheriff~~ trained
16 medical personnel, law enforcement, judicial personnel or employees
17 or contractors of ~~the county sheriff's office~~ these organizations.
18 The individuals shall be properly trained to collect blood or saliva
19 samples. Persons collecting blood or saliva for DNA testing or for
20 DNA-identification-matching purposes pursuant to this section shall
21 be immune from civil liabilities arising from this activity. All
22 collectors of DNA samples shall ensure the collected samples are
23 either mailed to the OSBI within ten (10) days after the DNA sample
24 is collected from the person. ~~All collectors of DNA samples shall~~

1 ~~use~~ using sample kits provided by the OSBI and procedures
2 promulgated by the OSBI; provided, if the jail, detention facility
3 or other designated facility is using Rapid DNA technology, the
4 collector shall use the provided collection instruments. Once the
5 DNA-identification-matching process has concluded, the collector
6 shall discard the sample taken in the jail, detention facility or
7 other designated facility.

8 If a jail, detention facility or other designated facility is
9 using Rapid DNA technology to take the DNA sample for DNA
10 identification purposes, said sample shall not be retained, tested
11 or stored after completion of the Rapid DNA identification process.

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

- 14 1. The arrest was made upon a valid felony arrest warrant;
- 15 2. The person has appeared before a judge or magistrate judge
16 who made a finding that there was probable cause for the arrest; ~~or~~
- 17 3. The person posted bond or was released prior to appearing
18 before a judge or magistrate judge and then failed to appear for a
19 scheduled hearing; or
- 20 4. The DNA sample is provided as a condition of a plea
21 agreement.

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

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

6 2. The state voluntarily dismissed the felony charge filed
7 against the person; or

8 3. The court dismissed the felony charge filed against the
9 person.

10 The Oklahoma State Bureau of Investigation shall promulgate
11 rules establishing procedures relating to the automatic expungement
12 of DNA samples, records and identifiable information collected under
13 the provisions of this section. Fees related to the expungement of
14 DNA samples, records and identifiable information shall not be
15 assessed for persons who qualify for an automatic expungement under
16 the provisions of this subsection.

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

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