

1 ENGROSSED HOUSE
2 BILL NO. 1014

By: Bush of the House

3 and

4 Shaw of the Senate

5
6 [criminal procedure - clarifying purpose for
7 collecting DNA samples - effective date]
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11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. AMENDATORY Section 1, Chapter 181, O.S.L.
13 2016 (22 O.S. Supp. 2018, Section 210), is amended to read as
14 follows:

15 Section 210. A. Subject to the availability of funds, a person
16 eighteen (18) years of age or older who is arrested for the
17 commission of a felony under the laws of this state or any other
18 jurisdiction shall, upon being booked into a jail or detention
19 facility, submit to deoxyribonucleic acid (DNA) sample collection
20 for testing for law-enforcement DNA-identification-matching purposes
21 in accordance with Section 150.27a of Title 74 of the Oklahoma
22 Statutes and the rules promulgated by the Oklahoma State Bureau of
23 Investigation (OSBI) for the OSBI Combined DNA Index System (CODIS)
24 Database. DNA samples shall be collected by ~~the arresting authority~~

1 trained medical personnel, law enforcement or employees or medical
2 contractors of these organizations as qualified pursuant to
3 subsection B of this section. ~~Convicted or arrested individuals who~~
4 ~~have previously submitted to DNA testing pursuant to this section or~~
5 ~~Section 991a of Title 22 of the Oklahoma Statutes and for whom a~~
6 ~~valid sample is on file in the OSBI CODIS Database shall not be~~
7 ~~required to submit to additional testing.~~

8 B. Samples of blood or saliva for DNA testing or for DNA-
9 identification-matching purposes required by subsection A of this
10 section shall be taken by ~~peace officers, the county sheriff~~ trained
11 medical personnel, law enforcement or employees or medical
12 contractors of the county sheriff's office these organizations. The
13 individuals shall be properly trained to collect blood or saliva
14 samples. Persons collecting blood or saliva for DNA testing or for
15 DNA-identification-matching purposes pursuant to this section shall
16 be immune from civil liabilities arising from this activity. All
17 collectors of DNA samples shall ensure the collected samples are
18 mailed or delivered to the OSBI within ten (10) days after the DNA
19 sample is collected from the person. ~~All collectors of DNA samples~~
20 ~~shall use~~ using sample kits provided by the OSBI and procedures
21 promulgated by the OSBI, or if the jail, detention facility or other
22 designated facility is using Rapid DNA technology, the collector
23 shall use the provided collection instruments. Once the DNA-
24 identification-matching process has concluded and a sample has been

1 mailed or delivered to the OSBI, the collector shall discard the
2 Rapid DNA sample taken in the jail, detention facility or other
3 designated facility.

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

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

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

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

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

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1 4. The DNA sample is provided as a condition of a plea
2 agreement.

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

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

10 2. The state voluntarily dismissed the felony charge filed
11 against the person; or

12 3. The court dismissed the felony charge filed against the
13 person.

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

21 SECTION 2. This act shall become effective November 1, 2019.
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1 Passed the House of Representatives the 7th day of March, 2019.

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4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ____ day of _____, 2019.

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9 Presiding Officer of the Senate