

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 HOUSE BILL 3331

By: Sanders

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5
6 AS INTRODUCED

7 An Act relating to impaired driver history records;
8 amending Section 8, Chapter 172, O.S.L. 2016 (47 O.S.
9 Supp. 2017, Section 11-902d), which relates to the
10 statewide impaired driver database; requiring
11 assistance from the Oklahoma State Bureau of
12 Investigation; eliminating certain reporting
13 requirement; requiring certain records be entered in
14 the database; eliminating authority to prescribe
15 certain forms and report formats; amending 74 O.S.
16 2011, Section 150.9, as last amended by Section 1,
17 Chapter 156, O.S.L. 2017 (74 O.S. Supp. 2017, Section
18 150.9), which relates to criminal history records;
19 requiring the transmission of certain records from
20 the Oklahoma State Bureau of Investigation to the
21 Department of Public Safety; and providing an
22 effective date.

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

24 SECTION 1. AMENDATORY Section 8, Chapter 172, O.S.L.
2016 (47 O.S. Supp. 2017, Section 11-902d), is amended to read as
follows:

Section 11-902d. A. The Commissioner of the Department of
Public Safety is hereby authorized to oversee the creation,
development and implementation of a statewide impaired driver
database with assistance from the Oklahoma State Bureau of

1 Investigation and the Office of Management and Enterprise Services
2 subject to fiscal limitations and the availability of federal funds.

3 B. In any case in which a person is arrested for driving under
4 the influence of alcohol or any other intoxicating substance, ~~an~~
5 ~~impaired driver arrest report shall be completed by the law~~
6 ~~enforcement officer that made the arrest and~~ the record of the
7 impaired driver arrest as transmitted to the Department of Public
8 Safety by the Oklahoma State Bureau of Investigation shall be
9 entered into the impaired driver database. ~~The Commissioner shall~~
10 ~~prescribe the form and format of the impaired driver arrest report.~~

11 C. There is hereby created in the State Treasury a revolving
12 fund for the Department of Public Safety to be designated the
13 "Oklahoma Impaired Driver Database Revolving Fund". The fund shall
14 be a continuing fund, not subject to fiscal year limitations. All
15 monies accruing to the credit of the fund are hereby appropriated
16 and may be budgeted and expended by the Department for the exclusive
17 purpose of implementing, developing, administering and maintaining
18 an impaired driver database. Expenditures from the funds shall be
19 made upon warrants issued by the State Treasurer against claims
20 filed as prescribed by law with the Director of the Office of
21 Management and Enterprise Services for approval and payment.

22 SECTION 2. AMENDATORY 74 O.S. 2011, Section 150.9, as
23 last amended by Section 1, Chapter 156, O.S.L. 2017 (74 O.S. Supp.
24 2017, Section 150.9), is amended to read as follows:

1 Section 150.9 A. The Oklahoma State Bureau of Investigation
2 shall procure, file and maintain criminal history records for each
3 person subject to mandatory reporting as provided by law, including
4 photographs, descriptions, fingerprints, measurements and other
5 pertinent information relating to such persons. It shall be the
6 duty of law enforcement officers and agencies, sheriffs, police,
7 courts, judicial officials, district attorneys, and the persons in
8 charge of any state correctional facility or institution to furnish
9 criminal history records to the Bureau as required by Section 150.1
10 et seq. of this title. The Oklahoma State Bureau of Investigation
11 shall cooperate with and assist the sheriffs, chiefs of police and
12 other law enforcement officers of the state by maintaining a
13 complete criminal history record on each person subject to mandatory
14 reporting as provided by law, and shall have on file the fingerprint
15 impressions of all such persons together with other pertinent
16 information as may from time to time be received from the law
17 enforcement officers of this and other states or as may be required
18 by law. The Oklahoma State Bureau of Investigation shall assist the
19 Department of Public Safety with the maintenance of a statewide
20 impaired driver database by transmitting to the Department criminal
21 history records related to impaired driver arrests as they are
22 received by the Bureau from law enforcement entities.

23 B. 1. The Oklahoma Department of Consumer Credit, the
24 Insurance Department, the Oklahoma Horse Racing Commission, or any

1 other state agency, board, department or commission or any other
2 person or entity authorized to request a criminal history record or
3 an analysis of fingerprints for commercial, licensing or other
4 purposes, except law enforcement purposes, shall conduct a national
5 criminal history records check on all persons of the entity
6 authorized to access or review national criminal history records
7 checks information by July 1, 2009, and within sixty (60) days
8 thereafter.

9 2. Each agency, person or entity authorized to request a
10 criminal history record or an analysis of fingerprints shall pay a
11 fee to the Bureau for each criminal history record or fingerprint
12 analysis as follows:

13 Oklahoma criminal history record only	\$15.00 each
14 Oklahoma criminal history record with	
15 fingerprint analysis	\$19.00 each
16 National criminal history record with	
17 fingerprint analysis	\$41.00 each

18 3. For purposes of this section, "a national criminal history
19 record check" means a check of criminal history records entailing
20 the fingerprinting of the individual and submission of the
21 fingerprints to the United States Federal Bureau of Investigation
22 (FBI) for the purpose of obtaining the national criminal history
23 record of the person from the FBI. A national criminal history
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1 record check may be obtained only when a check is authorized or
2 required by state or federal law.

3 Agencies authorized by statute to conduct national criminal
4 history background checks for individuals are eligible to
5 participate in the Federal Rap Back Program administered by the
6 Oklahoma State Bureau of Investigation. The Oklahoma State Bureau
7 of Investigation is authorized to submit fingerprints to the FBI Rap
8 Back System to be retained in the FBI Rap Back System for the
9 purpose of being searched by future submissions to the FBI Rap Back
10 System, including latent fingerprint searches, and to collect all
11 Federal Rap Back Program fees from eligible agencies wishing to
12 participate and remit such fees to the Federal Bureau of
13 Investigation.

14 4. Unless a national criminal history record is specifically
15 requested, a fingerprint analysis shall be limited to only those
16 records available at the Oklahoma State Bureau of Investigation.
17 Following receipt of the appropriate fee, the Bureau shall provide,
18 as soon as possible, the criminal history record requested;
19 provided, however, it shall be the duty and responsibility of the
20 requesting authority to evaluate the criminal history record as such
21 record may apply to a specific purpose or intent. An individual may
22 submit a certified court record showing that a charge was dismissed
23 or a certified copy of a gubernatorial pardon to the Oklahoma State
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1 Bureau of Investigation, and upon verification of that record the
2 Bureau records shall reflect the dismissal of that charge.

3 C. The Oklahoma State Bureau of Investigation may maintain an
4 identification file, including fingerprint impressions, on any
5 person under eighteen (18) years of age who is arrested or subject
6 to criminal or juvenile delinquency proceedings, provided all such
7 information shall be confidential and shall only be made available
8 to the Bureau and other law enforcement agencies. Whenever a
9 fingerprint impression or other identification information is
10 submitted to the Bureau on a person under eighteen (18) years of
11 age, the Bureau may retain and file such fingerprint and
12 identification information for identification purposes only. The
13 Bureau shall ensure that the information received and maintained for
14 identification purposes on persons under eighteen (18) years of age
15 shall be handled and processed with great care to keep such
16 information confidential from the general public. The Bureau may
17 receive and maintain the fingerprints and other identification
18 information on any person under eighteen (18) years of age believed
19 to be the subject of a runaway, missing, or abduction investigation,
20 for identification purposes at the request of a parent, guardian or
21 legal custodian of the person.

22 D. Any person who knowingly procures, utters, or offers any
23 false, forged or materially altered criminal history record shall be
24 guilty of a felony and upon conviction shall be punished by

1 imprisonment in the custody of the Department of Corrections for a
2 period not to exceed five (5) years or by a fine not to exceed Five
3 Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

4 SECTION 3. This act shall become effective November 1, 2018.

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