

1 ENGROSSED SENATE AMENDMENT  
TO

2 ENGROSSED HOUSE  
BILL NO. 3439

By: Bush of the House

and

Shaw of the Senate

[ DNA testing requirements - Rapid DNA Fees - DNA  
collection and testing requirements - establishing  
guidelines for submitting samples - effective date ]

10

11

12 AMENDMENT NO. 1. Page 1, strike the stricken title, enacting clause  
and entire bill and insert

13

14 "An Act relating to DNA testing requirements; amending  
15 20 O.S. 2011, Section 1313.2, as last amended by  
16 Section 1, Chapter 343, O.S.L. 2017 (20 O.S. Supp.  
17 2017, Section 1313.2), which relates to fees assessed  
18 in criminal cases; providing for the assessment of  
19 Rapid DNA Fees; allowing certain persons to collect  
20 DNA samples; updating statutory reference; providing  
21 exception for Rapid DNA testing; requiring convicted  
22 persons to pay for costs of collecting and analyzing  
23 DNA samples; directing law enforcement agencies to  
24 follow certain collection procedures; amending 74  
O.S. 2011, Section 150.27a, as last amended by  
Section 3, Chapter 194, O.S.L. 2017 (74 O.S. Supp.  
2017, Section 150.27a), which relates to  
establishment of OSBI DNA Database; establishing  
guidelines for submitting samples; defining terms;  
directing law enforcement agencies to comply with  
Rapid DNA standards and procedures of the Federal  
Bureau of Investigation; restricting use of Rapid DNA  
instruments and technology; and providing an  
effective date.

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

2 SECTION 1. AMENDATORY 20 O.S. 2011, Section 1313.2, as  
3 last amended by Section 1, Chapter 343, O.S.L. 2017 (20 O.S. Supp.  
4 2017, Section 1313.2), is amended to read as follows:

5 Section 1313.2. A. As used in this section:

6 1. "Arrested" means taking custody of another for the purpose  
7 of holding or detaining him or her to answer a criminal charge;

8 2. "Convicted" means any final adjudication of guilt, whether  
9 pursuant to a plea of guilty or nolo contendere or otherwise, and  
10 any deferred or suspended sentence or judgment;

11 3. "Court" means any state or municipal court having  
12 jurisdiction to impose a criminal fine or penalty; and

13 4. "DNA" means ~~Deoxyribonucleic~~ deoxyribonucleic acid.

14 B. Any person convicted of an offense, including traffic  
15 offenses but excluding parking and standing violations, punishable  
16 by a fine of Ten Dollars (\$10.00) or more or by incarceration or any  
17 person forfeiting bond when charged with such an offense, shall be  
18 ordered by the court to pay Ten Dollars (\$10.00) as a separate fee,  
19 which fee shall be in addition to and not in substitution for any  
20 and all fines and penalties otherwise provided for by law for such  
21 offense.

22 C. 1. Any person convicted of any misdemeanor or felony  
23 offense shall pay a Laboratory Analysis Fee in the amount of One  
24 Hundred Fifty Dollars (\$150.00) for each offense if forensic science

1 or laboratory services are rendered or administered by the Oklahoma  
2 State Bureau of Investigation (OSBI), by the Toxicology Laboratory  
3 of the Office of the Chief Medical Examiner or by any municipality  
4 or county in connection with the case. This fee shall be in  
5 addition to and not a substitution for any and all fines and  
6 penalties otherwise provided for by law for this offense.

7 2. The court clerk shall cause to be deposited the amount of  
8 One Hundred Fifty Dollars (\$150.00) as collected, for every  
9 conviction as described in this subsection. The court clerk shall  
10 remit the monies in the fund on a monthly basis directly either to:

11 a. the OSBI who shall deposit the monies into the OSBI  
12 Revolving Fund provided for in Section 150.19a of  
13 Title 74 of the Oklahoma Statutes for services  
14 rendered or administered by the OSBI,

15 b. the Office of the Chief Medical Examiner who shall  
16 deposit the monies into the Chief Medical Examiner  
17 Revolving Fund provided for in Section 954 of Title 63  
18 of the Oklahoma Statutes for services rendered or  
19 administered by the Office of the Chief Medical  
20 Examiner, or

21 c. the appropriate municipality or county for services  
22 rendered or administered by a municipality or county.

23 3. The monies from the Laboratory Analysis Fee Fund deposited  
24 into the OSBI Revolving Fund shall be used for the following:

- 1 a. providing criminalistic laboratory services,
- 2 b. the purchase and maintenance of equipment for use by
- 3 the laboratory in performing analysis,
- 4 c. education, training, and scientific development of
- 5 OSBI personnel, and
- 6 d. the destruction of seized property and chemicals as
- 7 prescribed in Sections 2-505 and 2-508 of Title 63 of
- 8 the Oklahoma Statutes.

9 D. Upon conviction or bond forfeiture, the court shall collect  
10 the fee provided for in subsection B of this section and deposit it  
11 in an account created for that purpose. Except as otherwise  
12 provided in subsection E of this section, monies shall be forwarded  
13 monthly by the court clerk to the Council on Law Enforcement  
14 Education and Training (CLEET). Beginning July 1, 2003, deposits  
15 shall be due on the fifteenth day of each month for the preceding  
16 calendar month. There shall be a late fee imposed for failure to  
17 make timely deposits; provided, CLEET, in its discretion, may waive  
18 all or part of the late fee. Such late fee shall be one percent  
19 (1%) of the principal amount due per day beginning from the tenth  
20 day after payment is due and accumulating until the late fee reaches  
21 one hundred percent (100%) of the principal amount due. Beginning  
22 on July 1, 1987, ninety percent (90%) of the monies received by  
23 CLEET from the court clerks pursuant to this section shall be  
24 deposited in the CLEET Fund, and ten percent (10%) shall be

1 deposited in the General Revenue Fund. Beginning January 1, 2001,  
2 sixty and fifty-three one-hundredths percent (60.53%) of the monies  
3 received by CLEET from the court clerks pursuant to this section  
4 shall be deposited in the CLEET Fund created pursuant to subsection  
5 G of this section, five and eighty-three one-hundredths percent  
6 (5.83%) shall be deposited in the General Revenue Fund and thirty-  
7 three and sixty-four one-hundredths percent (33.64%) shall be  
8 deposited in the CLEET Training Center Revolving Fund created  
9 pursuant to Section 3311.6 of Title 70 of the Oklahoma Statutes.  
10 Along with the deposits required by this subsection, each court  
11 shall also submit a report stating the total amount of funds  
12 collected and the total number of fees imposed during the preceding  
13 quarter. The report may be made on computerized or manual  
14 disposition reports.

15 E. Any municipality or county having a basic law enforcement  
16 academy approved by CLEET pursuant to the criteria developed by  
17 CLEET for training law enforcement officers shall retain from monies  
18 collected pursuant to subsections A through D of this section, Two  
19 Dollars (\$2.00) from each fee. These monies shall be deposited into  
20 an account for the sole use of the municipality or county in  
21 implementing its law enforcement training functions. Not more than  
22 seven percent (7%) of the monies shall be used for court and  
23 prosecution training. The court clerk of any such municipality or  
24

1 county shall furnish to CLEET the report required by subsection D of  
2 this section.

3 F. 1. Any person entering a plea of guilty or nolo contendere  
4 or is found guilty of the crime of misdemeanor possession of  
5 marijuana or drug paraphernalia shall be ordered by the court to pay  
6 a five-dollar fee, which shall be in addition to and not in  
7 substitution for any and all fines and penalties otherwise provided  
8 for by law for such offense.

9 2. The court clerk shall cause to be deposited the amount of  
10 Five Dollars (\$5.00) as collected, for every adjudicated or  
11 otherwise convicted person as described in this subsection. The  
12 court clerk shall remit the monies in the fund on a monthly basis  
13 directly to the Bureau of Narcotics Drug Education Revolving Fund.

14 G. There is hereby created in the State Treasury a fund for the  
15 Council on Law Enforcement Education and Training to be designated  
16 the "CLEET Fund". The fund shall be subject to legislative  
17 appropriation and shall consist of any monies received from fees and  
18 receipts collected pursuant to the Oklahoma Open Records Act,  
19 reimbursements for parts used in the repair of weapons of law  
20 enforcement officers attending the basic academies, gifts, bequests,  
21 contributions, tuition, fees, devises, and the assessments levied  
22 pursuant to the fund pursuant to law.

23 H. 1. Any person ~~arrested or convicted of a felony offense or~~  
24 ~~convicted of a misdemeanor offense of assault and battery, domestic~~

1 ~~abuse, stalking, possession of a controlled substance prohibited~~  
2 ~~under Schedule IV of the Uniform Controlled Dangerous Substances~~  
3 ~~Act, outraging public decency, resisting arrest, escaping or~~  
4 ~~attempting to escape, eluding a police officer, Peeping Tom,~~  
5 ~~pointing a firearm, threatening an act of violence, breaking and~~  
6 ~~entering a dwelling place, destruction of property, negligent~~  
7 ~~homicide or causing a personal injury accident while driving under~~  
8 ~~the influence of any intoxicating substance~~ required to submit a DNA  
9 sample pursuant to Section 150.27a of Title 74 of the Oklahoma  
10 Statutes shall pay a DNA fee of One Hundred Fifty Dollars (\$150.00)  
11 to the OSBI. If the individual arrested or convicted submits a DNA  
12 sample to an arresting authority, jail, or booking center for Rapid  
13 DNA analysis, the individual shall be assessed the Rapid DNA fee of  
14 One Hundred Fifty Dollars (\$150.00), in lieu of the DNA fee, by the  
15 agency processing the sample. This fee shall not be collected if  
16 The agency collecting the DNA sample shall be required to verify  
17 prior to collection whether the person has a valid DNA sample in the  
18 OSBI DNA Offender Database at the time of sentencing. If the  
19 individual already has a valid DNA sample in the OSBI DNA Offender  
20 Database, no sample will be collected and the DNA fee or Rapid DNA  
21 fee shall not be assessed. It shall be the responsibility of the  
22 district attorney to inform the court whether the OSBI DNA fee is  
23 applicable at the time of conviction.  
24

1       2. ~~The~~ Upon conviction, the court clerk shall ~~cause to be~~  
2 ~~deposited the amount of One Hundred Fifty Dollars (\$150.00) deposit~~  
3 ~~DNA fees~~ as collected for ~~every felony arrest, felony conviction or~~  
4 ~~every conviction for a misdemeanor offense of assault and battery,~~  
5 ~~domestic abuse, stalking, possession of a controlled substance~~  
6 ~~prohibited under Schedule IV of the Uniform Controlled Dangerous~~  
7 ~~Substances Act, outraging public decency, resisting arrest, escaping~~  
8 ~~or attempting to escape, eluding a police officer, Peeping Tom,~~  
9 ~~pointing a firearm, threatening an act of violence, breaking and~~  
10 ~~entering a dwelling place, destruction of property, negligent~~  
11 ~~homicide or causing a personal injury accident while driving under~~  
12 ~~the influence of any intoxicating substance as described in this~~  
13 ~~subsection~~ from individuals required to submit a DNA sample pursuant  
14 to Section 150.27a of Title 74 of the Oklahoma Statutes. The court  
15 clerk shall remit the monies in ~~said~~ the fund on a monthly basis  
16 directly to the OSBI who shall deposit the monies into the OSBI  
17 Revolving Fund provided for in Section 150.19a of Title 74 of the  
18 Oklahoma Statutes for services rendered or administered by the OSBI.

19       3. Collection of Rapid DNA fees shall be the responsibility of  
20 the agency conducting Rapid DNA analysis. Any funds collected  
21 through Rapid DNA fees shall be used to pay for expenses incurred to  
22 perform Rapid DNA analysis of arrestee or offender samples.

23       4. The monies from the DNA sample fee deposited into the OSBI  
24 Revolving Fund shall be used for creating, staffing, and maintaining



1 the OSBI DNA Laboratory and OSBI Combined DNA Index System (CODIS)  
2 Database.

3 I. It shall be the responsibility of the court clerk to account  
4 for and ensure the correctness and accuracy of payments made to the  
5 state agencies identified in Sections 1313.2 through 1313.4 of this  
6 title. Payments made directly to an agency by the court clerk as a  
7 result of different types of assessments and fees pursuant to  
8 Sections 1313.2 through 1313.4 of this title shall be made monthly  
9 to each state agency.

10 SECTION 2. AMENDATORY 74 O.S. 2011, Section 150.27a, as  
11 last amended by Section 3, Chapter 194, O.S.L. 2017 (74 O.S. Supp.  
12 2017, Section 150.27a), is amended to read as follows:

13 Section 150.27a. A. There is hereby established within the  
14 Oklahoma State Bureau of Investigation (OSBI) the OSBI Combined DNA  
15 Index System (CODIS) Database for the purpose of collecting and  
16 storing blood or saliva samples and DNA profiles, analyzing and  
17 typing of the genetic markers contained in or derived from DNA, and  
18 maintaining the records and samples of DNA of individuals:

19 1. Convicted of any felony offense;

20 2. Required to register pursuant to the Sex Offenders  
21 Registration Act;

22 3. Subject to the availability of funds, eighteen (18) years of  
23 age or older arrested for the commission of a felony under the laws  
24 of this state or any other jurisdiction, upon being booked into a

1 jail or detention facility. Provided, the DNA sample shall not be  
2 analyzed and shall be destroyed unless one of the following  
3 conditions has been met:

4 a. the arrest was made upon a valid felony arrest  
5 warrant,

6 b. the person has appeared before a judge or magistrate  
7 judge who made a finding that there was probable cause  
8 for the arrest, or

9 c. the person posted bond or was released prior to  
10 appearing before a judge or magistrate judge and then  
11 failed to appear for a scheduled hearing; and

12 4. Subject to the availability of funds, convicted of a  
13 misdemeanor offense of assault and battery, domestic abuse,  
14 stalking, possession of a controlled substance prohibited under  
15 Schedule IV of the Uniform Controlled Dangerous Substances Act,  
16 outraging public decency, resisting arrest, escaping or attempting  
17 to escape, eluding a police officer, Peeping Tom, pointing a  
18 firearm, threatening an act of violence, breaking and entering a  
19 dwelling place, destruction of property, negligent homicide, or  
20 causing a personal injury accident while driving under the influence  
21 of any intoxicating substance, or, upon arrest, any alien unlawfully  
22 present under federal immigration law.

23 The purpose of this database is the detection or exclusion of  
24 individuals who are subjects of the investigation or prosecution of

1 sex-related crimes, violent crimes, or other crimes in which  
2 biological evidence is recovered, and such information shall be used  
3 for no other purpose.

4 B. Any DNA specimen taken in good faith by the Department of  
5 Corrections, its employees or contractors, the county sheriff, its  
6 employees or contractors or a peace officer, and submitted to the  
7 OSBI may be included, maintained, and kept by the OSBI in a database  
8 for criminal investigative purposes despite the specimen having not  
9 been taken in strict compliance with the provisions of this section  
10 or Section 991a of Title 22 of the Oklahoma Statutes.

11 C. Upon the request to OSBI by the federal or state authority  
12 having custody of the person, any individual who was convicted of  
13 violating laws of another state or the federal government, but is  
14 currently incarcerated or residing in Oklahoma, shall submit to DNA  
15 profiling for entry of the data into the OSBI DNA Offender Database.  
16 This provision shall only apply when such federal or state  
17 conviction carries a requirement of sex offender registration or DNA  
18 profiling. The person to be profiled shall pay a fee of One Hundred  
19 Fifty Dollars (\$150.00) to the OSBI.

20 D. The OSBI CODIS Database is specifically exempt from any  
21 statute requiring disclosure of information to the public. The  
22 information contained in the database is privileged from discovery  
23 and inadmissible as evidence in any civil court proceeding. The  
24 information in the database is confidential and shall not be

1 released to the public. Any person charged with the custody and  
2 dissemination of information from the database shall not divulge or  
3 disclose any such information except to federal, state, county or  
4 municipal law enforcement or criminal justice agencies. Any person  
5 violating the provisions of this section upon conviction shall be  
6 deemed guilty of a misdemeanor punishable by imprisonment in the  
7 county jail for not more than one (1) year.

8 E. The OSBI Criminalistics Services Division (CSD) shall  
9 promulgate rules concerning the collection, ~~storing~~ storage,  
10 analysis, expungement and dissemination of information and samples  
11 for the OSBI CODIS Database. The OSBI CSD shall determine the type  
12 of equipment, collection procedures, and reporting documentation to  
13 be used by the Department of Corrections, a county sheriff's office  
14 or a law enforcement agency in submitting DNA samples to the OSBI  
15 CSD in accordance with Section 991a of Title 22 of the Oklahoma  
16 Statutes. The OSBI CSD shall provide training to designated  
17 employees of the Department of Corrections, a county sheriff's  
18 office and a law enforcement agency in the proper methods of  
19 performing the duties required by this section.

20 F. The OSBI CSD may approve the use of Rapid DNA systems by the  
21 Department of Corrections, a county sheriff's office or a law  
22 enforcement agency for the analysis of known DNA samples collected  
23 upon arrest or conviction, once the Federal Bureau of Investigation  
24 (FBI) has approved these systems for use with CODIS and issued

1 quality assurance standards and written procedures governing the use  
2 of Rapid DNA Systems by law enforcement booking stations. The OSBI  
3 CSD shall not approve the Department of Corrections, any county  
4 sheriff's office or law enforcement agency to use Rapid DNA until  
5 the Department, office or agency has documented or demonstrated  
6 compliance with the requirements set forth by the FBI. The OSBI CSD  
7 shall promulgate rules concerning the approval of agencies to use  
8 Rapid DNA Systems and shall determine the collection procedures and  
9 reporting documentation to be used by the Department of Corrections,  
10 a county sheriff's office or law enforcement agency in submitting  
11 arrestee or offender samples in accordance with Section 991a of  
12 Title 22 of the Oklahoma Statutes, which have already been analyzed  
13 by Rapid DNA. Rapid DNA shall not be used by any sheriff's office  
14 or law enforcement agency for the analysis of any forensic, crime  
15 scene or reference sample to be used for comparison to forensic or  
16 crime scene samples unless the sheriff's office or law enforcement  
17 agency complies with the requirements of Section 150.37 of this  
18 title and the FBI's Quality Assurance Standards for Forensic DNA  
19 Testing Laboratories.

20 G. The OSBI CODIS Database may include secondary databases and  
21 indexes including, but not limited to:

22 1. Forensic index database consisting of unknown evidence  
23 samples;

24

1           2. Suspect index database consisting of samples taken from  
2 individuals as a result of criminal investigations;

3           3. Convicted offender index database authorized pursuant to  
4 subsection A of this section; and

5           4. Missing persons and unidentified remains index or database  
6 consisting of DNA profiles from unidentified remains and relatives  
7 of missing persons.

8           ~~G.~~ H. 1. Any person convicted of a felony offense who is in  
9 custody shall provide a blood or saliva sample prior to release.

10           2. Subject to the availability of funds, any person convicted  
11 of a misdemeanor offense of assault and battery, domestic abuse,  
12 stalking, possession of a controlled substance prohibited under  
13 Schedule IV of the Uniform Controlled Dangerous Substances Act,  
14 outraging public decency, resisting arrest, escaping or attempting  
15 to escape, eluding a police officer, Peeping Tom, pointing a  
16 firearm, threatening an act of violence, breaking and entering a  
17 dwelling place, destruction of property, negligent homicide, or  
18 causing a personal injury incident while driving under the influence  
19 of any intoxicating substance who is in custody shall provide a  
20 blood or saliva sample prior to release.

21           3. Every person who is convicted of a felony offense whose  
22 sentence does not include a term of incarceration shall provide a  
23 blood or saliva sample as a condition of sentence.

1           4. Subject to the availability of funds, every person who is  
2 convicted of a misdemeanor offense of assault and battery, domestic  
3 abuse, stalking, possession of a controlled substance prohibited  
4 under Schedule IV of the Uniform Controlled Dangerous Substances  
5 Act, outraging public decency, resisting arrest, escape or  
6 attempting to escape, eluding a police officer, Peeping Tom,  
7 pointing a firearm, threatening an act of violence, breaking and  
8 entering a dwelling place, destruction of property, negligent  
9 homicide, or causing a personal injury accident while driving under  
10 the influence of any intoxicating substance whose sentence does not  
11 include a term of incarceration shall provide a blood or saliva  
12 sample as a condition of sentence.

13           5. Subject to the availability of funds, any person eighteen  
14 (18) years of age or older who is arrested for the commission of a  
15 felony under the laws of this state or any other jurisdiction shall,  
16 upon being booked into a jail or detention facility, submit to DNA  
17 testing for law enforcement identification purposes. Provided, the  
18 DNA sample shall not be analyzed and shall be destroyed unless one  
19 of the following conditions has been met:

- 20           a. the arrest was made upon a valid felony arrest
- 21                 warrant,
- 22           b. the person has appeared before a judge or magistrate
- 23                 judge who made a finding that there was probable cause
- 24                 for the arrest, ~~or~~

- 1 c. the person posted bond or was released prior to  
2 appearing before a judge or magistrate judge and then  
3 failed to appear for a scheduled hearing, or  
4 d. the arrestee is booked into the facility on a felony  
5 charge.

6 SECTION 3. This act shall become effective November 1, 2018."  
7

8 Passed the Senate the 25th day of April, 2018.  
9

10 \_\_\_\_\_  
11 Presiding Officer of the Senate

12 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
13 2018.

14  
15 \_\_\_\_\_  
16 Presiding Officer of the House  
17 of Representatives  
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24



1 ENGROSSED HOUSE  
2 BILL NO. 3439

By: Bush of the House

3 and

4 Shaw of the Senate

5  
6  
7 [ DNA testing requirements - Rapid DNA Fees - DNA  
8 collection and testing requirements - establishing  
9 guidelines for submitting samples - effective date ]  
10  
11

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

13 SECTION 4. AMENDATORY 20 O.S. 2011, Section 1313.2, as  
14 last amended by Section 1, Chapter 343, O.S.L. 2017 (20 O.S. Supp.  
15 2017, Section 1313.2), is amended to read as follows:

16 Section 1313.2 A. As used in this section:

17 1. "Arrested" means taking custody of another for the purpose  
18 of holding or detaining him or her to answer a criminal charge;

19 2. "Convicted" means any final adjudication of guilt, whether  
20 pursuant to a plea of guilty or nolo contendere or otherwise, and  
21 any deferred or suspended sentence or judgment;

22 3. "Court" means any state or municipal court having  
23 jurisdiction to impose a criminal fine or penalty; and

24 4. "DNA" means ~~Deoxyribonucleic~~ deoxyribonucleic acid.

1 B. Any person convicted of an offense, including traffic  
2 offenses but excluding parking and standing violations, punishable  
3 by a fine of Ten Dollars (\$10.00) or more or by incarceration or any  
4 person forfeiting bond when charged with such an offense, shall be  
5 ordered by the court to pay Ten Dollars (\$10.00) as a separate fee,  
6 which fee shall be in addition to and not in substitution for any  
7 and all fines and penalties otherwise provided for by law for such  
8 offense.

9 C. 1. Any person convicted of any misdemeanor or felony  
10 offense shall pay a Rapid DNA Fee or a Laboratory Analysis Fee in  
11 the amount of One Hundred Fifty Dollars (\$150.00) for each offense  
12 if forensic science ~~or~~, laboratory services or Rapid DNA testing  
13 services are rendered or administered by the Oklahoma State Bureau  
14 of Investigation (OSBI), by the Toxicology Laboratory of the Office  
15 of the Chief Medical Examiner or by any municipality or county in  
16 connection with the case. This fee shall be in addition to and not  
17 a substitution for any and all fines and penalties otherwise  
18 provided for by law for this offense.

19 2. The court clerk shall cause to be deposited the amount of  
20 One Hundred Fifty Dollars (\$150.00) as collected, for every  
21 conviction as described in this subsection. The court clerk shall  
22 remit the monies in the fund on a monthly basis directly either to:

23 a. the OSBI who shall deposit the monies into the OSBI  
24 Revolving Fund provided for in Section 150.19a of

1 Title 74 of the Oklahoma Statutes for services  
2 rendered or administered by the OSBI,

3 b. the Office of the Chief Medical Examiner who shall  
4 deposit the monies into the Chief Medical Examiner  
5 Revolving Fund provided for in Section 954 of Title 63  
6 of the Oklahoma Statutes for services rendered or  
7 administered by the Office of the Chief Medical  
8 Examiner, or

9 c. the appropriate municipality or county for services  
10 rendered or administered by a municipality or county.

11 3. The monies from the Laboratory Analysis Fee Fund deposited  
12 into the OSBI Revolving Fund shall be used for the following:

- 13 a. providing criminalistic laboratory services,  
14 b. the purchase and maintenance of equipment for use by  
15 the laboratory in performing analysis,  
16 c. education, training, and scientific development of  
17 OSBI personnel, and  
18 d. the destruction of seized property and chemicals as  
19 prescribed in Sections 2-505 and 2-508 of Title 63 of  
20 the Oklahoma Statutes.

21 D. Upon conviction or bond forfeiture, the court shall collect  
22 the fee provided for in subsection B of this section and deposit it  
23 in an account created for that purpose. Except as otherwise  
24 provided in subsection E of this section, monies shall be forwarded

1 monthly by the court clerk to the Council on Law Enforcement  
2 Education and Training (CLEET). Beginning July 1, 2003, deposits  
3 shall be due on the fifteenth day of each month for the preceding  
4 calendar month. There shall be a late fee imposed for failure to  
5 make timely deposits; provided, CLEET, in its discretion, may waive  
6 all or part of the late fee. Such late fee shall be one percent  
7 (1%) of the principal amount due per day beginning from the tenth  
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17 G of this section, five and eighty-three one-hundredths percent  
18 (5.83%) shall be deposited in the General Revenue Fund and thirty-  
19 three and sixty-four one-hundredths percent (33.64%) shall be  
20 deposited in the CLEET Training Center Revolving Fund created  
21 pursuant to Section 3311.6 of Title 70 of the Oklahoma Statutes.  
22 Along with the deposits required by this subsection, each court  
23 shall also submit a report stating the total amount of funds  
24 collected and the total number of fees imposed during the preceding

1 quarter. The report may be made on computerized or manual  
2 disposition reports.

3 E. Any municipality or county having a basic law enforcement  
4 academy approved by CLEET pursuant to the criteria developed by  
5 CLEET for training law enforcement officers shall retain from monies  
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7 Dollars (\$2.00) from each fee. These monies shall be deposited into  
8 an account for the sole use of the municipality or county in  
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11 prosecution training. The court clerk of any such municipality or  
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22 otherwise convicted person as described in this subsection. The  
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24 directly to the Bureau of Narcotics Drug Education Revolving Fund.

1 G. There is hereby created in the State Treasury a fund for the  
2 Council on Law Enforcement Education and Training to be designated  
3 the "CLEET Fund". The fund shall be subject to legislative  
4 appropriation and shall consist of any monies received from fees and  
5 receipts collected pursuant to the Oklahoma Open Records Act,  
6 reimbursements for parts used in the repair of weapons of law  
7 enforcement officers attending the basic academies, gifts, bequests,  
8 contributions, tuition, fees, devises, and the assessments levied  
9 pursuant to the fund pursuant to law.

10 H. 1. Any person arrested or convicted of a felony offense or  
11 convicted of a misdemeanor offense of assault and battery, domestic  
12 abuse, stalking, possession of a controlled substance prohibited  
13 under Schedule IV of the Uniform Controlled Dangerous Substances  
14 Act, outraging public decency, resisting arrest, escaping or  
15 attempting to escape, eluding a police officer, Peeping Tom,  
16 pointing a firearm, threatening an act of violence, breaking and  
17 entering a dwelling place, destruction of property, negligent  
18 homicide or causing a personal injury accident while driving under  
19 the influence of any intoxicating substance shall pay a DNA fee of  
20 One Hundred Fifty Dollars (\$150.00). This fee shall not be  
21 collected if the person has a valid DNA sample in the OSBI DNA  
22 Offender Database at the time of sentencing.

23 2. The court clerk shall cause to be deposited the amount of  
24 One Hundred Fifty Dollars (\$150.00) as collected for every felony

1 arrest, felony conviction or every conviction for a misdemeanor  
2 offense of assault and battery, domestic abuse, stalking, possession  
3 of a controlled substance prohibited under Schedule IV of the  
4 Uniform Controlled Dangerous Substances Act, outraging public  
5 decency, resisting arrest, escaping or attempting to escape, eluding  
6 a police officer, Peeping Tom, pointing a firearm, threatening an  
7 act of violence, breaking and entering a dwelling place, destruction  
8 of property, negligent homicide or causing a personal injury  
9 accident while driving under the influence of any intoxicating  
10 substance as described in this subsection. The court clerk shall  
11 remit the monies in said fund on a monthly basis directly to the  
12 OSBI who shall deposit the monies into the OSBI Revolving Fund  
13 provided for in Section 150.19a of Title 74 of the Oklahoma Statutes  
14 for services rendered or administered by the OSBI.

15 3. The monies from the DNA sample fee deposited into the OSBI  
16 Revolving Fund shall be used for creating, staffing, and maintaining  
17 the OSBI DNA Laboratory and OSBI Combined DNA Index System (CODIS)  
18 Database.

19 I. It shall be the responsibility of the court clerk to account  
20 for and ensure the correctness and accuracy of payments made to the  
21 state agencies identified in Sections 1313.2 through 1313.4 of this  
22 title. Payments made directly to an agency by the court clerk as a  
23 result of different types of assessments and fees pursuant to  
24

1 Sections 1313.2 through 1313.4 of this title shall be made monthly  
2 to each state agency.

3 SECTION 5. AMENDATORY Section 1, Chapter 181, O.S.L.  
4 2016 (22 O.S. Supp. 2017, Section 210), is amended to read as  
5 follows:

6 Section 210. A. Subject to the availability of funds, a person  
7 eighteen (18) years of age or older who is arrested ~~for the~~  
8 ~~commission of a felony~~ under the laws of this state or any other  
9 jurisdiction shall, upon being booked into a jail or detention  
10 facility, submit to deoxyribonucleic acid (DNA) testing for law  
11 enforcement identification purposes in accordance with Section  
12 150.27a of Title 74 of the Oklahoma Statutes and the rules  
13 promulgated by the Federal Bureau of Investigation or the Oklahoma  
14 State Bureau of Investigation (OSBI) for the OSBI Combined DNA Index  
15 System (CODIS) Database. DNA samples shall be collected by the  
16 arresting authority, jail or detention center personnel as qualified  
17 pursuant to subsection B of this section. Convicted or arrested  
18 individuals who have previously submitted to DNA testing pursuant to  
19 this section or Section 991a of ~~Title 22 of the Oklahoma Statutes~~  
20 this title and for whom a valid sample is on file in the OSBI CODIS  
21 Database shall not be required to submit to additional testing.

22 B. Samples of blood or saliva for DNA testing required by  
23 subsection A of this section shall be taken by peace officers, the  
24 county sheriff or employees or contractors of the county sheriff's



1 office. The individuals shall be properly trained to collect blood  
2 or saliva samples. Persons collecting blood or saliva for DNA  
3 testing pursuant to this section shall be immune from civil  
4 liabilities arising from this activity. ~~All collectors~~ Except for  
5 those criminal justice agencies, jails and detention booking  
6 facilities using Rapid DNA instruments and DNA analysis in booking  
7 facilities, all other collectors of DNA samples shall ensure the  
8 collected samples are mailed or delivered to the OSBI or to an  
9 accredited laboratory operated by a municipality or county for the  
10 purpose of conducting DNA testing within ten (10) days after the DNA  
11 sample is collected from the person. ~~All~~ Except for those criminal  
12 justice agencies, jails and detention booking facilities using Rapid  
13 DNA instruments and resulting DNA analysis for identification  
14 purposes, all other collectors of DNA samples shall use sample kits  
15 provided by one of the following:

16 1. The OSBI and; or

17 2. An accredited laboratory operated by a municipality or  
18 county.

19 C. The cost incurred by the criminal justice agency, jail or  
20 detention booking facility for collecting and analyzing DNA from  
21 single-source known-arrestee profile samples at booking shall be  
22 paid by the convicted person pursuant to the provisions of Section  
23 1313.2 of Title 20 of the Oklahoma Statutes.

24

1        D. Collection and analysis procedures promulgated required by  
2 the OSBI and Federal Bureau of Investigation shall be followed by  
3 booking facilities using Rapid DNA instruments and resulting DNA  
4 analysis conducted during booking for identification purposes. All  
5 other DNA testing and analysis shall be submitted to the OSBI  
6 Combined DNA Index System (CODIS) Database for the purpose of  
7 storing and maintaining the records and samples of the collected  
8 DNA.

9        As used in this subsection and subsections E through I of this  
10 section, the term "Rapid DNA" or "Rapid DNA analysis" is defined as  
11 a fully automated process of developing a CODIS DNA profile from a  
12 reference DNA sample without human intervention or interpretation.  
13 "Rapid DNA instruments" means instrumentation that carries a fully  
14 automated process to derive a DNA analysis from a DNA sample.

15        E. Law enforcement officers, jail and detention personnel and  
16 other criminal justice agencies shall use the Rapid DNA system,  
17 instruments, software, kits and technology approved by the Federal  
18 Bureau of Investigation and shall comply with the requirements for  
19 Rapid DNA standards and procedures in the booking environment issued  
20 by the Federal Bureau of Investigation.

21        F. The use of Rapid DNA instruments and technology is  
22 restricted exclusively, at this time, for use at booking facilities  
23 in jails and detention centers utilizing single-source known-  
24 arrestee reference samples until such time as usage for comparison

1 to forensic or crime-scene samples have been approved by the Federal  
2 Bureau of Investigation.

3 G. Rapid DNA instruments and technology shall not be used by  
4 any county sheriff or law enforcement agency for the analysis of  
5 forensic or crime-scene samples until or unless Rapid DNA technology  
6 has been approved by the Federal Bureau of Investigation for  
7 forensic and crime-scene-sample purposes and the county sheriff or  
8 law enforcement agency complies with the collection procedures,  
9 rules and regulations of the Federal Bureau of Investigation for  
10 Rapid DNA testing.

11 H. All law enforcement officers, jail and detention personnel  
12 in booking facilities that have Rapid DNA instruments and technology  
13 shall have completed training and been certified in the use of Rapid  
14 DNA instruments.

15 I. The criminal justice agency, jail or detention booking  
16 facility must execute a Memorandum of Understanding with the  
17 Oklahoma State Bureau of Investigation defining the roles and  
18 responsibilities with each facility planning to establish a Rapid  
19 DNA booking station for enrollment of arrestees in the OSBI Combined  
20 DNA Index System (CODIS) Database. Prior to implementing the Rapid  
21 DNA system, the criminal justice agency, jail or detention booking  
22 facility must adopt and implement Rapid DNA policies and procedures.

23 ~~C.~~ J. 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 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.

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

- 11 1. The felony offense for which the person was arrested does
- 12 not result in charges either by information or indictment and the
- 13 statute of limitations has expired;
- 14 2. The state voluntarily dismissed the felony charge filed
- 15 against the person; or
- 16 3. The court dismissed the felony charge filed against the
- 17 person.

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

