

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL 184

By: Shaw

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6 AS INTRODUCED

7 An Act relating to criminal procedure; amending
8 Section 1, Chapter 181, O.S.L. 2016 (22 O.S. Supp.
9 2018, Section 210), which relates to deoxyribonucleic
10 acid (DNA) testing upon arrest; clarifying purpose
11 for collecting DNA samples; designating persons
12 authorized to collect DNA samples; deleting certain
13 DNA collection exemption; directing facilities that
14 utilize rapid DNA technology to use certain
15 collection instruments; prohibiting facilities that
16 utilize rapid DNA technology from testing or storing
17 DNA samples after completion of matching process; and
18 providing an effective date.

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

20 SECTION 1. AMENDATORY Section 1, Chapter 181, O.S.L.
21 2016 (22 O.S. Supp. 2018, Section 210), is amended to read as
22 follows:

23 Section 210. A. Subject to the availability of funds, a person
24 eighteen (18) years of age or older who is arrested for the
25 commission of a felony under the laws of this state or any other
26 jurisdiction shall, upon being booked into a jail or detention
27 facility, submit to deoxyribonucleic acid (DNA) ~~testing~~ sample
28 collection for ~~law enforcement~~ testing DNA identification matching

1 purposes in accordance with Section 150.27a of Title 74 of the
2 Oklahoma Statutes and the rules promulgated by the Oklahoma State
3 Bureau of Investigation (OSBI) for the OSBI Combined DNA Index
4 System (CODIS) Database. DNA samples shall be collected by ~~the~~
5 ~~arresting authority~~ trained medical personnel, law enforcement,
6 judicial personnel and employees or contractors of these
7 organizations as qualified pursuant to subsection B of this section.
8 ~~Convicted or arrested individuals who have previously submitted to~~
9 ~~DNA testing pursuant to this section or Section 991a of Title 22 of~~
10 ~~the Oklahoma Statutes and for whom a valid sample is on file in the~~
11 ~~OSBI CODIS Database shall not be required to submit to additional~~
12 ~~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 or~~
16 ~~employees or contractors of the county sheriff's office~~ trained
17 medical personnel, law enforcement, judicial personnel and employees
18 or contractors of these organizations. The individuals shall be
19 properly trained to collect blood or saliva samples. Persons
20 collecting blood or saliva for DNA testing or for DNA identification
21 matching purposes pursuant to this section shall be immune from
22 civil liabilities arising from this activity. All collectors of DNA
23 samples shall ensure the collected samples are either mailed to the
24 OSBI within ten (10) days after the DNA sample is collected from the

1 person. ~~All collectors of DNA samples shall use~~ using sample kits
2 provided by the OSBI and procedures promulgated by the OSBI or, if
3 the jail, detention facility or other designated facility is using
4 Rapid DNA technology, collectors shall use the provided collection
5 instruments. Once the DNA identification matching process has
6 concluded the collector shall discard the sample taken in the jail,
7 detention facility or 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, the sample shall not be retained, tested or
11 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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