

1 **SENATE FLOOR VERSION**

2 February 12, 2019

3 **AS AMENDED**

4 SENATE BILL NO. 184

By: Shaw of the Senate

and

Bush of the House

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7  
8 **[ criminal procedure - deoxyribonucleic acid (DNA)**  
9 **testing - DNA samples - collection instruments -**  
10 **testing or storing DNA samples - effective date ]**

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) ~~testing~~ sample  
20 collection for ~~law enforcement~~ testing DNA identification matching  
21 purposes in accordance with Section 150.27a of Title 74 of the  
22 Oklahoma Statutes and the rules promulgated by the Oklahoma State  
23 Bureau of Investigation (OSBI) for the OSBI Combined DNA Index  
24 System (CODIS) Database. DNA samples shall be collected by ~~the~~

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

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

1 instruments. Once the DNA identification matching process has  
2 concluded the collector shall discard the sample taken in the jail,  
3 detention facility or other 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, the sample shall not be retained, tested or  
7 stored after completion of the Rapid DNA identification process.

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

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

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

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

16 4. The DNA sample is provided as a condition of a plea  
17 agreement.

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

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

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

3           3. The court dismissed the felony charge filed against the  
4 person.

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

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

13 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
14 February 12, 2019 - DO PASS AS AMENDED

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