

1 **SENATE FLOOR VERSION**

2 February 12, 2019

3 **AS AMENDED**

4 SENATE BILL NO. 236

5 By: Daniels and Boggs

6 An Act relating to evidence in criminal proceedings;  
7 amending 22 O.S. 2011, Section 751, as amended by  
8 Section 1, Chapter 5, O.S.L. 2013 (22 O.S. Supp.  
9 2018, Section 751), which relates to admissibility of  
10 laboratory and medical examiner's reports; providing  
11 for admissibility of laboratory report from **the**  
12 **Federal Bureau of Investigation** and the Drug  
13 Enforcement Administration; and providing an  
14 effective date.

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

16 SECTION 1. AMENDATORY 22 O.S. 2011, Section 751, as  
17 amended by Section 1, Chapter 5, O.S.L. 2013 (22 O.S. Supp. 2018,  
18 Section 751), is amended to read as follows:

19 Section 751. A. At any hearing prior to trial or at a  
20 forfeiture hearing:

21 1. A report of the findings of the laboratory of the Oklahoma  
22 State Bureau of Investigation, **the Federal Bureau of Investigation**  
23 or the Drug Enforcement Administration;

24 2. The report of investigation or autopsy report of the medical  
examiner;

1           3. A laboratory report from a forensic laboratory operated by  
2 this state or any political subdivision thereof, or from a  
3 laboratory performing analysis at the request of a forensic  
4 laboratory operated by this state or any political subdivision  
5 thereof;

6           4. A report from the Oklahoma State Bureau of Narcotics and  
7 Dangerous Drugs Control or the electronic methamphetamine precursor  
8 tracking service provider as set forth in the Uniform Controlled  
9 Dangerous Substances Act as to the existence or status of any  
10 license or permit to sell, transfer, or possess precursor substances  
11 or any report containing data collected and required to be  
12 transmitted by a registrant to the Oklahoma State Bureau of  
13 Narcotics and Dangerous Drugs Control Central Repository pursuant to  
14 the provisions of the Anti-Drug Diversion Act as set forth under the  
15 Uniform Controlled Dangerous Substances Act; or

16           5. A report from the Department of Public Safety as to the  
17 handling and storage of evidence, which has been made available to  
18 the accused by the office of the district attorney at least five (5)  
19 days prior to the hearing, with reference to all or any part of the  
20 evidence submitted, when certified as correct by the persons making  
21 the report shall be received as evidence of the facts and findings  
22 stated, if relevant and otherwise admissible in evidence. If a  
23 report is deemed relevant by the state or the accused, the court  
24 shall admit the report without the testimony of the person making

1 the report, unless the court, pursuant to subsection C of this  
2 section, orders the person making the report to appear. If the  
3 accused is not served with a report, by the district attorney,  
4 within five (5) days prior to a hearing, the accused may be allowed  
5 a continuance of the portion of the hearing to which the report is  
6 relevant, to allow at least five (5) days' preparation subsequent to  
7 the district attorney's furnishing of the report.

8 B. When any alleged controlled dangerous substance has been  
9 submitted to the laboratory of the Bureau for analysis, and such  
10 analysis shows that the submitted material is a controlled dangerous  
11 substance, the distribution of which constitutes a felony under the  
12 laws of this state, no portion of such substance shall be released  
13 to any other person or laboratory without an order of a district  
14 court. The defendant shall additionally be required to submit to  
15 the court a procedure for transfer and analysis of the subject  
16 material to ensure the integrity of the sample and to prevent the  
17 material from being used in any illegal manner.

18 C. For purposes of the medical examiner's report of  
19 investigation or autopsy report, or a laboratory report from a  
20 forensic laboratory operated by the State of Oklahoma or any  
21 political subdivision thereof or a report from the Oklahoma State  
22 Bureau of Narcotics and Dangerous Drugs Control as to the existence  
23 or status of any license or permit to sell, transfer, or possess  
24 precursor substances:

1           1. The court, upon motion of the state or the accused, shall  
2 order the attendance of any person preparing a report submitted as  
3 evidence in any hearing prior to trial or forfeiture hearing, when  
4 it appears there is a substantial likelihood that material evidence  
5 not contained in such report may be produced by the testimony of the  
6 person having prepared the report;

7           2. The motion shall be filed and notice of the hearing on the  
8 motion to order the attendance of the Chief Medical Examiner, a  
9 medical examiner, consultant pathologist, or anyone under their  
10 supervision or control shall be given to the medical examiner's  
11 office. The hearing shall be held and, if sustained, an order  
12 issued not less than five (5) days prior to the time when the  
13 testimony shall be required; and

14           3. If within five (5) days prior to the hearing or during a  
15 hearing a motion is made pursuant to this subsection requiring a  
16 person having prepared a report to testify, the court may hear a  
17 report or other evidence but shall continue the hearing until such  
18 time notice of the motion and hearing is given to the medical  
19 examiner's office, the motion is heard, and, if sustained, testimony  
20 ordered can be given.

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

22           COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
23           February 12, 2019 - DO PASS AS AMENDED  
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