An Act

ENROLLED HOUSE
BILL NO. 3340

By: Christian and Tibbs of the House

and

Sykes of the Senate

An Act relating to criminal procedure; amending 22 O.S. 2001, Section 751, as last amended by Section 2, Chapter 274, O.S.L. 2009 (22 O.S. Supp. 2009, Section 751), which relates to admission of findings of certain reports; authorizing use of certain report; amending 63 O.S. 2001, Section 2-309E, as amended by Section 5, Chapter 300, O.S.L. 2004 (63 O.S. Supp. 2009, Section 2-309E), which relates to the Uniform Controlled Dangerous Substances Act; making Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control the designated keeper of records for certain proceedings; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2001, Section 751, as last amended by Section 2, Chapter 274, O.S.L. 2009 (22 O.S. Supp. 2009, Section 751), is amended to read as follows:

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

1. A report of the findings of the laboratory of the Oklahoma State Bureau of Investigation;

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

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

4. A report from the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control as to the existence or status of any license or permit to sell, transfer, or possess precursor substances or any report containing data collected and required to be transmitted by a registrant to the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control Central Repository pursuant to the provisions of the Anti-Drug Diversion Act as set forth under the Uniform Controlled Dangerous Substances Act; or

5. A report from the Department of Public Safety as to the handling and storage of evidence, which has been made available to the accused by the office of the district attorney at least five (5) days prior to the hearing, with reference to all or any part of the evidence submitted, when certified as correct by the persons making the report shall be received as evidence of the facts and findings stated, if relevant and otherwise admissible in evidence. If a report is deemed relevant by the state or the accused, the court shall admit the report without the testimony of the person making the report, unless the court, pursuant to subsection C of this section, orders the person making the report to appear. If the accused is not served with a report, by the district attorney, within five (5) days prior to a hearing, the accused may be allowed a continuance of the portion of the hearing to which the report is relevant, to allow at least five (5) days' preparation subsequent to the district attorney's furnishing of the report.

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

C. For purposes of the medical examiner's report of investigation or autopsy report, or a laboratory report from a

forensic laboratory operated by the State of Oklahoma or any political subdivision thereof or a report from the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control as to the existence or status of any license or permit to sell, transfer, or possess precursor substances:

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

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

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

SECTION 2. AMENDATORY 63 O.S. 2001, Section 2-309E, as amended by Section 5, Chapter 300, O.S.L. 2004 (63 O.S. Supp. 2009, Section 2-309E), is amended to read as follows:

Section 2-309E. A. All access to information in the central repository shall be controlled by and made through the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control.

B. For the purposes of court proceedings, the Director of the Bureau, or designee, shall be the designated keeper of the records.

SECTION 3. This act shall become effective November 1, 2010.

Passed the House of Representatives the 2nd day of March, 2010.

Presiding Officer of the House of Representatives

Passed the Senate the 6th day of April, 2010.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 7th **day of** April, 2010, **at** 3:52 **o'clock** P **M.**

By:

Approved by the Governor of the State of Oklahoma the 12th **day of** April, 2010, **at** 7:05 **o'clock** P **M.**

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this 13th **day of** April, 2010, **at** 7:24 **o'clock** P. **M.**

By: