

ENROLLED HOUSE
BILL NO. 1105

By: Widener of the House

and

Kerr of the Senate

An Act relating to courts; amending 20 O.S. 1991, Section 121.2, which relates to salary determination for associate district judges; providing for determination of salary for certain associate district judges; amending 20 O.S. 1991, Sections 1005, as amended by Section 1, Chapter 87, O.S.L. 1993, 1006, 1007, as amended by Section 2, Chapter 87, O.S.L. 1993 and 1008 (20 O.S. Supp. 1994, Sections 1005 and 1007), which relate to destruction of court records; authorizing court clerk to destroy certain records under certain circumstances; defining term; clarifying and changing time periods for destruction of certain court records; adding records which are subject to destruction; allowing destruction of certain court reporter notes after certain time period; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 20 O.S. 1991, Section 121.2, is amended to read as follows:

Section 121.2 A. For purposes of determining the salaries of Associate District Judges, the Federal Decennial Census shall be used to determine the population of the county.

B. Provided, however, in those counties in which the population, according to the 1990 Federal Decennial Census, has fallen below the population threshold for salary determination, the salary of a sitting Associate District Judge shall not be lowered below the salary for the population threshold for salary determination based upon the population according to the 1980 Federal Decennial Census.

C. Provided, however, in those counties in which the population, according to the 1980 and 1990 Federal Decennial Censuses, was below the population threshold for salary determination, but the population rose above the population threshold for salary determination between the 1980 and 1990 Federal Decennial Censuses, the salary of an Associate District Judge continuing in office or initially elected in 1994 shall not be lowered if the judge or predecessor of the judge received a salary increase during the time the population of the county rose above the threshold population. Within forty-five (45) days after the effective date of this act, any judge who is subject to the provisions of this subsection and whose salary was reduced shall receive a one-time payment, in an amount equal to the difference of the amount of their base pay after the reduction and the amount their base pay would have been if the reduction had not occurred.

SECTION 2. AMENDATORY 20 O.S. 1991, Section 1005, as amended by Section 1, Chapter 87, O.S.L. 1993 (20 O.S. Supp. 1994, Section 1005), is amended to read as follows:

Section 1005. A. ~~The~~ Unless there is an objection by the chief judge of a the district court may authorize the court clerk, the court clerk is authorized to dispose of the judicial records enumerated in this subsection by first offering all or part of ~~said~~ the records to the Archives and Records Division of the Oklahoma Department of Libraries for preservation as historical research materials, and by destroying all those which are not accepted by the Division. The judicial records subject to disposal or destruction shall be:

1. ~~All divorce cases in which there has been no activity for more than twenty (20) years~~ domestic relations cases after a twenty-year period has elapsed since any pleading has been filed or any action taken in the case. Domestic relations cases shall include, but not be limited to, cases filed concerning divorce, separate maintenance, annulment, reciprocal actions for enforcement of support, child custody, domestic abuse, foreign judgments in domestic relations cases, income assignments relating to an order of support, paternity, appeal on administrative order relating to support or paternity, habeas corpus relating to children, and other domestic-related filings;

2. ~~Divorce~~ Domestic relations cases that have been dismissed and no pleading has been filed or any action taken in the case for more than one (1) year;

3. Actions brought for money judgment only in which a dismissal or release and satisfaction has been filed for more than five (5) years; and

4. Civil and criminal records of adjudicated cases which have been finally adjudicated for more than ten (10) years after a ten-year period has elapsed since any pleading has been filed or any action taken in the case.

B. The judicial records and the appearance docket books or sheets on which they are entered, prior to their disposal or destruction, shall be stored on at least two microfilm records, optical disks, or other appropriate medium, one of which shall be placed in the Archives and Records Division of the Oklahoma Department of Libraries or in a bank or other appropriate local depository and the other shall be available for public use in the court clerk's office. The copy in the Department of Libraries or other depository shall be available for replacement in case of functional failure of the one available for public use. The cost of the storage medium and equipment for viewing and copying shall be paid out of the court fund, upon approval by the Chief Justice of the Supreme Court. ~~Microfilm~~ Records reproduced from microfilm, optical disk, and other media produced pursuant to the provisions of this section shall be received in evidence and have the same legal efficacy as the original.

C. The court clerk of each district court shall destroy the judicial records of traffic cases and the appearance docket books or sheets on which they are entered, ~~when said cases have been finally adjudicated for more than five (5) years~~ after a five-year period has elapsed since any pleading has been filed or any action taken in the case, except in the case of a conviction for driving under the influence of intoxicating liquor or any narcotic drug.

D. The court clerk of each district court shall destroy the judicial records of justice of the peace courts including docket books on which they are entered; small claims cases including the docket books and sheets on which they are entered, ~~when said cases~~

~~have been finally adjudicated for more than five (5) years, or after a five-year period of five (5) years shall have~~ has elapsed since any pleading has been filed or any action taken in ~~said the~~ the case.

SECTION 3. AMENDATORY 20 O.S. 1991, Section 1006, is amended to read as follows:

Section 1006. ~~The~~ Unless there is an objection by the chief judge of ~~a the~~ the district court ~~may direct the clerk of the district court,~~ the court clerk is authorized to destroy all exhibits in all ~~divorce~~ domestic relations cases in which there has been no activity for more than ~~twenty-two (22)~~ twenty (20) years, and exhibits in all other civil cases in which there has been no activity for more than ten (10) years. ~~Such~~ The chief judge may direct a court reporter to destroy a court reporter's notes in ~~divorce~~ domestic relations cases in which there has been no activity for ~~twenty-two (22)~~ twenty (20) years, in all other civil and criminal cases in which there has been no activity for more than ten (10) years, and in misdemeanor cases in which there has been no activity for more than five (5) years. ~~Provided that no~~ No pleadings or judgments shall be destroyed under the provisions hereof.

SECTION 4. AMENDATORY 20 O.S. 1991, Section 1007, as amended by Section 2, Chapter 87, O.S.L. 1993 (20 O.S. Supp. 1994, Section 1007), is amended to read as follows:

Section 1007. The court clerk in each county in Oklahoma is hereby authorized to destroy or sell for salvage the documents mentioned herein which have been on file or stored in his office for a period longer than the time specified below:

1. One (1) year. All marriage health certificates.
2. Two (2) years. All instruments relating to beer, bingo, process servers, foreign process servers, closing out sale, and pool hall licenses including the applications, affidavits of residence, orders for hearing, notices of hearing, affidavits of posting and mailing and duplicate beer license.
3. Five (5) years. All duplicate receipts, duplicate vouchers, mechanics' and materialmen's lien records, duplicate deposit tickets, jury lists, juror and witness certificates, court clerk's liens, court fund claims, jury and bailiff records, monthly reports, statutory bonds, cost bonds, paid claims, procedural bonds, court assignments, and court calendars including disposition docket books containing entries which have been posted to the case file docket sheet or computer printed docket sheet, appearance bonds and search warrants in instances where no charges are filed, purchase orders, and court minutes.

4. Ten (10) years. All records of traffic cases preserved on microfilm, optical disk or other storage media.

SECTION 5. AMENDATORY 20 O.S. 1991, Section 1008, is amended to read as follows:

Section 1008. In each county of ~~the~~ this state, the court clerk is hereby authorized to destroy, from time to time, depositions taken in all civil cases, except adoptions, ~~that have been finally terminated for ten (10) years~~ after a ten-year period, and depositions taken in domestic relations cases may be destroyed after a twenty-year period has elapsed since any pleading has been filed or any action taken in the case.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1010 of Title 20, unless there is created a duplication in numbering, reads as follows:

A court reporter's notes may be destroyed by a person lawfully in possession of the notes after a five-year period has elapsed following the death of the court reporter.

SECTION 7. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 11th day of May, 1995.

Speaker of the House of
Representatives

Passed the Senate the 15th day of May, 1995.

President of the Senate