

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2764

By: Paulk

COMMITTEE SUBSTITUTE

An Act relating to antiterrorism; amending 13 O.S. 2001, Section 176.7, which relates to court orders authorizing interception of communications; authorizing interception for investigation of an act of terrorism; amending 15 O.S. 2001, Section 777.2, which relates to the Emergency Price Stabilization Act; modifying definition to include act of terrorism; amending 21 O.S. 2001, Section 13.1 (Section 2, Chapter 437, O.S.L. 2001), which relates to required minimum sentence for certain crimes; adding act of terrorism; amending 21 O.S. 2001, Sections 701.7 and 701.12, which relate to murder; adding an act of terrorism to felony murder; expanding aggravating circumstances authorizing death penalty; amending 21 O.S. 2001, Section 1550.41, which relates to identification documents and cards; increasing penalty for offense committed in the commission or attempted commission of an act of terrorism; prohibiting act of bioterrorism; setting penalty; defining term; providing short title of act; defining terms; prohibiting act of terrorism, rendering criminal assistance, and providing material support for an act of terrorism; setting penalty; prohibiting terroristic threats and false reports of terrorism; setting penalties; authorizing seizure and forfeiture of items used in violation of the Oklahoma Antiterrorism Act; specifying forfeiture procedures; establishing burden of proof; authorizing court to enter certain orders; amending 22 O.S. 2001, Section 1402, which relates to the Oklahoma Corrupt Organizations Prevention Act; adding an act of terrorism to definition of racketeering activity; amending 25 O.S. 2001, Section 307, which relates to the Oklahoma Open Meetings Act; authorizing executive session to discuss acts of terrorism, vulnerability assessments and response plans; amending 27A O.S. 2001, Sections 4-1-101, 4-1-102, 4-1-103, 4-1-104, 4-1-105 and 4-1-106, which relate to the Oklahoma Emergency Response Act; modifying short title; modifying purpose; modifying and adding definitions; providing additional procedures for responding; authorizing additional contact personnel; modifying certain procedures; providing for liability for certain releases; requiring payment; providing for procedures for reimbursement; creating the Division of Dangerous Substances Emergency Response within the Department of Public Safety; providing for appointment of a Director; stating qualifications; providing for employment of certain personnel;

requiring certain rules; providing for contents; providing for certain assignments; authorizing certain leases and grants; providing for conditions and requirements; specifying certain limits; authorizing certain contracts; requiring certain contents; creating the Dangerous Substances Emergency Response Revolving Fund; providing for purpose; providing for deposits and expenditures; providing for contents; amending 47 O.S. 2001, Sections 6-106 and 6-111, which relate to driver licenses; requiring applicant to present proof of citizenship; requiring applicant for hazardous materials endorsement to provide criminal history background record; requiring citizenship to appear on driver license or identification card; amending 47 O.S. 2001, Section 6-301, which relates to unlawful use of driver license; increasing penalty for use in commission or attempted commission of an act of terrorism; amending 47 O.S. 2001, Section 1109, which relates to confidentiality of title information; requiring Oklahoma Tax Commission to establish standard method for reporting title information; amending 51 O.S. 2001, Section 24A.5, which relates to public records; exempting records dealing with terrorism and Catastrophic Emergency Health Powers Act; amending 70 O.S. 2001, Section 3311 (Section 3, Chapter 312, O.S.L. 2001), which relates to the Council on Law Enforcement Education and Training; requiring intelligence gathering training to be provided in basic police training; establishing an Oklahoma Office of Homeland Security; stating duties; establishing an oversight committee; stating duties; requiring cooperation of all state agencies; authorizing removal from office for failure to cooperate; amending 74 O.S. 2001, Sections 150.2 and 150.21a, which relate to the Oklahoma State Bureau of Investigation; authorizing investigation of acts of terrorism; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 13 O.S. 2001, Section 176.7, is amended to read as follows:

Section 176.7 The Attorney General, upon application by a district attorney, may make application to a judge of competent jurisdiction for, and such judge may grant in conformity with the Security of Communications Act, an order authorizing the interception of wire, oral or electronic communications by any law enforcement agency of this state or any political subdivision thereof having responsibility for the investigation of the offense

as to which the application is made, when such interception may provide evidence of the commission of an act of terrorism, as defined in Section 9 of this act, the offense of murder, the cultivation or manufacture or distribution of narcotic drugs or other controlled dangerous substances as defined in the Uniform Controlled Dangerous Substances Act, or trafficking in illegal drugs, as defined in the Trafficking in Illegal Drugs Act, and any conspiracy to commit the crimes specifically enumerated in this section.

SECTION 2. AMENDATORY 15 O.S. 2001, Section 777.2, is amended to read as follows:

Section 777.2 As used in the Emergency Price Stabilization Act:

1. "Dwelling unit" means any structure or part of a structure which is used as a home, residence, or sleeping place by one or more persons and includes, but is not limited to, lodging establishments, hotels, motels, boarding houses, inns, single-family residences, duplexes, and apartments;

2. "Emergency" means any occasion or instance including, but not limited to, any natural disaster such as a tornado, storm, high water, earthquake, landslide, mudslide, snowstorm, or drought, and regardless of cause, any fire, flood, ~~or~~ explosion, or act of terrorism as defined in Section 9 of this act, determined by the Governor of this state or by the President of the United States to require extraordinary measures to save lives, to protect property, or to promote public health and safety, or to lessen or avert the threat of a catastrophe. "Emergency" includes a civil defense or disaster emergency as defined by the Oklahoma Civil Defense and Emergency Resources Management Act of 1967 and any emergency or major disaster as defined by any federal disaster relief act;

3. "Emergency area" means the county or counties affected by an emergency, any county or part of a county specifically identified in a declaration of emergency issued by the Governor of this state or

by the President of the United States, and all counties contiguous with the affected county;

4. "Goods" means all things which are movable at the time of sale, rental, or lease other than the money with which the price is to be paid and includes any services which are incidental to the sale of the goods; and

5. "Services" means any duty or labor to be rendered by one person to another and includes any goods which are incidental to the performance of the service. "Services" also includes, but is not limited to:

- a. the sale of utilities including, but not limited to, electricity, natural gas, telecommunications, and cable television,
- b. the sale, rental, or lease of transportation, freight, carriage, moving, and storage, and
- c. the rental or lease of vehicles, trailers, and other equipment.

SECTION 3. AMENDATORY 21 O.S. 2001, Section 13.1 (Section 2, Chapter 437, O.S.L. 2001), is amended to read as follows:

Section 13.1 Persons convicted of:

1. First degree murder as defined in Section 701.9 of this title;

2. Second degree murder as defined by Section 701.8 of this title;

3. Manslaughter in the first degree as defined by Section 711 of this title;

4. Poisoning with intent to kill as defined by Section 651 of this title;

5. Shooting with intent to kill, use of a vehicle to facilitate use of a firearm, crossbow or other weapon, assault, battery, or assault and battery with a deadly weapon or by other means likely to

produce death or great bodily harm, as defined by Section 652 of this title;

6. Assault with intent to kill as defined by Section 653 of this title;

7. Conjoint robbery as defined by Section 800 of this title;

8. Robbery with a dangerous weapon as defined in Section 801 of this title;

9. First degree robbery as defined in Section 797 of this title;

10. First degree rape as defined in Section 1115 of this title;

11. First degree arson as defined in Section 1401 of this title;

12. First degree burglary as defined in Section 1436 of this title;

13. Bombing as defined in Section 1767.1 of this title;

14. Any crime against a child provided for in Section 7115 of Title 10 of the Oklahoma Statutes;

15. Forcible sodomy as defined in Section 888 of this title;

16. Child pornography as defined in Section 1021.2, 1021.3 or 1024.1 of this title;

17. Child prostitution as defined in Section 1030 of this title; ~~and~~

18. Lewd molestation of a child as defined in Section 1123 of this title; and

19. An act of terrorism, as defined in Section 9 of this act, shall be required to serve not less than eighty-five percent (85%) of any sentence of imprisonment imposed by the judicial system prior to becoming eligible for consideration for parole. Persons convicted of these offenses shall not be eligible for earned credits or any other type of credits which have the effect of reducing the length of the sentence to less than eighty-five percent (85%) of the sentence imposed.

SECTION 4. AMENDATORY 21 O.S. 2001, Section 701.7, is amended to read as follows:

Section 701.7 A. A person commits murder in the first degree when that person unlawfully and with malice aforethought causes the death of another human being. Malice is that deliberate intention unlawfully to take away the life of a human being, which is manifested by external circumstances capable of proof.

B. A person also commits the crime of murder in the first degree, regardless of malice, when that person or any other person takes the life of a human being during, or if the death of a human being results from, the commission or attempted commission of murder of another person, shooting or discharge of a firearm or crossbow with intent to kill, intentional discharge of a firearm or other deadly weapon into any dwelling or building as provided in Section 1289.17A of this title, forcible rape, robbery with a dangerous weapon, kidnapping, escape from lawful custody, first degree burglary, first degree arson, unlawful distributing or dispensing of controlled dangerous substances, ~~or~~ trafficking in illegal drugs, or an act of terrorism as defined in Section 9 of this act.

C. A person commits murder in the first degree when the death of a child results from the willful or malicious injuring, torturing, maiming or using of unreasonable force by said person or who shall willfully cause, procure or permit any of said acts to be done upon the child pursuant to Section 7115 of Title 10 of the Oklahoma Statutes. It is sufficient for the crime of murder in the first degree that the person either willfully tortured or used unreasonable force upon the child or maliciously injured or maimed the child.

D. A person commits murder in the first degree when that person unlawfully and with malice aforethought solicits another person or persons to cause the death of a human being in furtherance of unlawfully manufacturing, distributing or dispensing controlled

dangerous substances, as defined in the Uniform Controlled Dangerous Substances Act, unlawfully possessing with intent to distribute or dispense controlled dangerous substances, or trafficking in illegal drugs.

SECTION 5. AMENDATORY 21 O.S. 2001, Section 701.12, is amended to read as follows:

Section 701.12 Aggravating circumstances shall be:

1. The defendant was previously convicted of a felony involving the use or threat of violence to the person;
2. The defendant knowingly created a great risk of death to more than one person;
3. The person committed the murder for remuneration or the promise of remuneration or employed another to commit the murder for remuneration or the promise of remuneration;
4. The murder was especially heinous, atrocious, or cruel;
5. The murder was committed for the purpose of avoiding or preventing a lawful arrest or prosecution;
6. The murder was committed by a person while serving a sentence of imprisonment on conviction of a felony;
7. The existence of a probability that the defendant would commit criminal acts of violence that would constitute a continuing threat to society; ~~or~~
8. The victim of the murder was a peace officer as defined by Section 99 of Title 21 of the Oklahoma Statutes, ~~or~~ a guard of an institution under the control of the Department of Corrections, an emergency medical technician, firefighter or other first responder to an emergency and such person was killed while in performance of official duty; or
9. The murder was committed for the purpose of intimidating or coercing a civilian population, influencing the policy of a government by intimidation or coercion, or affecting the conduct of a government by intimidation or coercion.

SECTION 6. AMENDATORY 21 O.S. 2001, Section 1550.41, is amended to read as follows:

Section 1550.41 A. As used in this section and Section 1550.42 of this title, "identification document", "identification card", or "identification certificate" means any printed form which contains:

1. The name and photograph of a person; or
2. The name and any physical description of a person; or
3. Any combination of information provided for in paragraphs 1

and 2 of this subsection; and

which by its format, is capable of leading a person to believe said document, card, or certificate has been issued for the purpose of identifying the person named thereon, but shall not include any printed form which, on its face, conspicuously bears the term "NOT FOR IDENTIFICATION" in not less than six-point type.

B. It is a misdemeanor for any person:

1. To purchase an identification document, identification card, or identification certificate which bears altered or fictitious information concerning the date of birth, sex, height, eye color, weight, a fictitious or forged name or signature or a photograph of any person, other than the person named thereon;

2. To display or cause or permit to be displayed or to knowingly possess an identification document, identification card or identification certificate which bears altered or fictitious information concerning the date of birth, sex, height, eye color, weight, or fictitious or forged name or signature or a photograph of any person, other than the person named thereon;

3. To display or cause or permit to be displayed or to knowingly possess any counterfeit or fictitious identification document, identification card, or identification certificate; or

4. To use the "Great Seal of the State of Oklahoma" or facsimile thereof, on any identification document, identification card, or identification certificate which is not issued by an entity

of this state or political subdivision thereof, or by the United States. Provided, nothing in this paragraph shall be construed to prohibit the use of the "Great Seal of the State of Oklahoma" for authorized advertising, including but not limited to, business cards, calling cards and stationery.

C. It is a felony for any person:

1. To create, publish or otherwise manufacture an identification document, identification card or identification certificate or facsimile thereof, or to create, manufacture or possess an engraved plate or other such device for the printing of an identification document, identification card or identification certificate or facsimile thereof, which purports to identify the bearer of such document, card, or certificate whether or not intended for use as identification, and includes, but is not limited to, documents, cards, and certificates purporting to be driver's licenses, nondriver's identification cards, birth certificates, social security cards, and employee identification cards, except as authorized by state or federal law;

2. To sell or offer for sale an identification document, identification card, or identification certificate or facsimile thereof, which purports to identify the bearer of such document, card, or certificate whether or not intended for use as identification, and includes, but is not limited to, documents, cards, and certificates purporting to be driver's licenses, nondriver's identification cards, birth certificates, social security cards, and employee identification cards, except as authorized by state or federal law; or

3. To display or present an identification document, identification card or identification certificate which bears altered, false or fictitious information for the purpose of:

a. committing or aiding in the commission of a felony in any commercial or financial transaction,

b. misleading a peace officer in the performance of his duties, or

c. avoiding prosecution.

D. 1. The violation of any of the provisions of subsection B of this section shall constitute a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not less than Twenty-five Dollars (\$25.00), nor more than Two Hundred Dollars (\$200.00).

2. The violation of any of the provisions of subsection C of this section shall constitute a felony and, upon conviction thereof, shall be punishable by a fine not exceeding Ten Thousand Dollars (\$10,000.00) or a term of imprisonment in the State Penitentiary not to exceed seven (7) years, or by both such fine and imprisonment.

3. The violation of any of the provisions of subsection C of this section in the commission or attempted commission of an act of terrorism as defined in Section 9 of this act shall constitute a felony and, upon conviction thereof, shall be punishable by a term of imprisonment in the State Penitentiary not to exceed ten (10) years.

E. Notwithstanding any provision of this section, the chief administrator of a federal or state law enforcement agency may request the Commissioner of the Department of Public Safety to authorize the issuance of an identification document, identification card, or identification certificate which would otherwise be a violation of this section, to identify a police officer or agent as another person for the sole purpose of aiding in a criminal investigation. A person displaying or possessing such identification shall not be prosecuted for a violation of this section. Upon termination of the criminal investigation, the person to whom such identification document, identification card or identification certificate was issued shall return such identification to the Department of Public Safety.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2000 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful for any person to knowingly commit an act of bioterrorism.

B. Any person convicted of violating the provisions of this section shall be guilty of a felony punishable by imprisonment in the State Penitentiary for a term of not more than life imprisonment.

C. For purposes of this section, "bioterrorism" means the intentional use of any microorganism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product, to cause death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism in order to influence the conduct of government or to intimidate or coerce a civilian population.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2001 of Title 21, unless there is created a duplication in numbering, reads as follows:

Sections 8 through 12 of this act shall be known and may be cited as the "Oklahoma Antiterrorism Act".

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2002 of Title 21, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Antiterrorism Act:

1. "Act of terrorism" means an act constituting an offense for which a person may be convicted in the criminal courts of this state or an act constituting an offense in any other jurisdiction within or outside the territorial boundaries of the United States which

contain all the essential elements of a particular crime or that involves a violent act dangerous to human life that is intended to:

- a. intimidate or coerce a civilian population, or
- b. influence the policy or conduct of a unit a government by intimidation or coercion;

2. "Criminal assistance" means with the intent to avoid, prevent, hinder, or delay discovery, apprehension, prosecution, trial or sentencing of a person known to have violated the Oklahoma Antiterrorism Act by:

- a. harboring or concealing that person,
- b. warning that person of impending discovery or apprehension,
- c. providing that person with material support or resources,
- d. providing that person with transportation, a weapon, a disguise, or false identification, and
- e. preventing or obstructing, by any means, discovery, apprehension or prosecution of that person;

3. "Dangerous to human life" means a substantial likelihood of death or serious injury;

4. "False report of terrorism" means to make a false report of an act of terrorism and to report that false report to any other person;

5. "Material support or resources" means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials;

6. "Person" means an individual, agent, association, charitable organization, corporation, joint apprenticeship committee, joint stock company, labor organization, legal representative, mutual

company, partnership, receiver, trust, trustee, trustee in bankruptcy, unincorporated organization, or any other legal or commercial entity; and

7. "Terroristic threat" means to threaten to commit an act of terrorism and to communicate that threat to any other person.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2003 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful for any person to knowingly commit an act of terrorism.

B. It shall be unlawful for any person to knowingly render criminal assistance to a person who has committed an act of terrorism.

C. It shall be unlawful for any person to knowingly provide material support or resources towards the commission of an act of terrorism.

D. Any person convicted of violating the provisions of this section shall be guilty of a felony punishable by imprisonment in the State Penitentiary for a term of not more than life imprisonment.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2004 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful for any person to make a terroristic threat.

B. It shall be unlawful for any person to make a false report of terrorism.

C. It is not a defense to prosecution under this section that the person did not have the intent or capability of committing the act of terrorism.

D. Any person convicted of violating the provision of this section shall be guilty of a felony punishable by imprisonment in

the State Penitentiary for a term of not more than twenty (20) years, or by a fine of not more than Twenty Thousand Dollars (\$20,000.00), or by both such fine and imprisonment.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2005 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. Any peace officer of this state is authorized to seize any property which is used in the violation of the Oklahoma Antiterrorism Act or any proceeds derived from a violation of the Oklahoma Antiterrorism Act. The property or proceeds may be held as evidence until a forfeiture has been declared or a release ordered. Forfeiture actions under this section may be brought by the district attorney in the proper county of venue as petitioner; provided, in the event the district attorney elects not to file such an action, or fails to file such action within ninety (90) days of the date of the seizure of such property or proceeds, a forfeiture action may be brought by the entity seizing such property or proceeds as petitioner.

B. Notice of seizure and intended forfeiture proceeding shall be given all owners and parties in interest by the party seeking forfeiture as follows:

1. Upon each owner or party in interest whose name and address is known, by mailing a copy of the notice by registered mail to the last-known address; and

2. Upon all other owners or parties in interest, whose addresses are unknown, by one publication in a newspaper of general circulation in the county where the seizure was made.

C. Within sixty (60) days after the mailing or publication of the notice, the owner of the property or proceeds and any other party in interest may file a verified answer and claim to the property or proceeds described in the notice of seizure and intended forfeiture proceeding.

D. If, at the end of sixty (60) days after the notice has been mailed or published there is no verified answer on file, the court shall hear evidence upon the fact of the unlawful use and may order the property or proceeds forfeited to the state, if such fact is proven.

E. If a verified answer is filed, the forfeiture proceeding shall be set for hearing.

F. At the hearing, the party seeking the forfeiture shall prove by clear and convincing evidence that:

1. The property was used in violation of the Oklahoma Antiterrorism Act with the knowledge of the owner of the property; or

2. The proceeds were derived from a violation of the Oklahoma Antiterrorism Act.

G. The owner or party in interest may prove:

1. That the right or interest in the property was created without any knowledge or reason to believe that the property was being used for the purpose charged; or

2. That the proceeds were not derived from a violation of the Oklahoma Antiterrorism Act.

H. In the event of such proof, the court may order the property or proceeds released to the bona fide or innocent owner or party in interest if the amount due the person is equal to, or in excess of, the value of the property or proceeds as of the date of the seizure.

I. If the amount due to such person is less than the value of the property or proceeds, or if no bona fide claim is established, the property or proceeds shall be forfeited to the state and shall be sold or transferred pursuant to the judgment of the court.

J. Property or proceeds taken or detained pursuant to this section shall not be repleviable, but shall be deemed to be in the custody of the office of the district attorney of the county where the property or proceeds were seized or in the custody of the party

seeking the forfeiture. The district attorney or the party seeking forfeiture of the property or proceeds may release the property or proceeds to the owner of the property or proceeds if it is determined that the owner had no knowledge of the illegal use of the property or illegal derivation of the proceeds, or if there is insufficient evidence to sustain the burden of showing illegal use of the property or illegal derivation of the proceeds. Property or proceeds which have not been released by the district attorney or the party seizing the property or proceeds shall be subject to the orders and decrees of the court or the official having jurisdiction thereof.

K. The district attorney or the party seizing the property or proceeds shall not be held civilly liable for having custody of the seized property or proceeds or proceeding with a forfeiture action as provided for in this section.

L. The earnings from the sale of any property or the transfer of proceeds not taken or detained by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Department of Corrections or the Office of the Attorney General shall be distributed as follows, in the order indicated:

1. To the bona fide or innocent purchaser or owner or conditional sales vendor of the property or proceeds, if any, up to the amount of the interest of the person in the property or proceeds, when the court declaring the forfeiture orders a distribution to the person;

2. To the payment of the actual expenses of preserving the property or proceeds; and

3. The balance to a revolving fund to be used and maintained for any purpose by the municipal or county law enforcement department that made the seizure with a yearly accounting to the

governing board of that county or municipal law enforcement agency. Monies from the fund may be used to pay costs for the storage of the property or proceeds if the property or proceeds are ordered released to a bona fide or innocent owner, purchaser, or conditional sales vendor and if monies are available in the fund.

M. The proceeds of the sale of any property or proceeds seized, taken or detained by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Department of Public Safety, the Oklahoma State Bureau of Investigation, the Alcoholic Beverage Laws Enforcement Commission, the Department of Corrections or the Office of the Attorney General shall be distributed as follows, in the order indicated:

1. To the bona fide or innocent purchaser or owner or conditional sales vendor of the property or proceeds, if any, up to the amount of the interest of the person in the property or proceeds, when the court declaring the forfeiture orders a distribution to the person;

2. To the payment of the actual expenses of preserving the property or proceeds; and

3. The balance to a revolving fund of the agency seizing the property or proceeds to be used and maintained as a revolving fund for law enforcement purposes by the agency seizing the property or proceeds. Monies from the fund may be used to pay costs for the storage of the property or proceeds if the property or proceeds are ordered released to a bona fide or innocent owner, purchaser, or conditional sales vendor.

N. When any property or proceeds are forfeited pursuant to this section, the district court of jurisdiction may order that the property or proceeds seized may be retained by the state, county, or municipal law enforcement agency which seized the property or proceeds for its official use.

O. If the court finds that the property or proceeds were not used in violation of the Oklahoma Antiterrorism Act, the court shall order the property or proceeds released to the owner.

P. No property or proceeds shall be forfeited pursuant to the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the knowledge or consent of the owner, or by any person other than the owner while the property or proceeds were unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States or of any state.

Q. For purposes of this section, "property" includes, but is not limited to, aircraft, vehicles, vessels and other tangible property that may be used in violation of the Oklahoma Antiterrorism Act.

R. For purposes of this section, "proceeds" includes, but is not limited to, currency, negotiable instruments and monetary instruments.

SECTION 13. AMENDATORY 22 O.S. 2001, Section 1402, is amended to read as follows:

Section 1402. As used in the Oklahoma Corrupt Organizations Prevention Act:

1. "Beneficial interest" includes:

- a. the interest of a person as a beneficiary pursuant to a trust, in which the trustee holds legal title to personal or real property, or
- b. the interest of a person as a beneficiary pursuant to any other arrangement under which any other person holds legal title to personal or real property for the benefit of such person.

The term beneficial interest does not include the interest of a stockholder in a corporation or the interest of a partner in either a general or limited partnership;

2. "Enterprise" includes any individual, sole proprietorship, partnership, corporation, trust, governmental entity, or other legal entity, or any union, association, unincorporated association or group of persons, associated in fact although not a legal entity, involved in any lawful or unlawful project or undertaking;

3. "Innocent party" includes bona fide purchasers and victims;

4. "Lien notice" means the notice pursuant to the provisions of Section 1412 of this title;

5. "Pattern of racketeering activity" means two or more occasions of conduct:

a. that include each of the following:

- (1) constitute racketeering activity,
- (2) are related to the affairs of the enterprise,
- (3) are not isolated, and
- (4) are not so closely related to each other and connected in point of time and place that they constitute a single event, and

b. where each of the following is present:

- (1) at least one of the occasions of conduct occurred after November 1, 1988,
- (2) the last of the occasions of conduct occurred within three (3) years, excluding any period of imprisonment served by any person engaging in the conduct, of a prior occasion of conduct, and
- (3) for the purposes of Section 1403 of this title each of the occasions of conduct constituted a felony pursuant to the laws of this state;

6. "Pecuniary value" means:

- a. anything of value in the form of money, a negotiable instrument, or a commercial interest, or anything else, the primary significance of which is economic advantage, or

- b. any other property or service that has a value in excess of One Hundred Dollars (\$100.00);

7. "Person" means any individual or entity holding or capable of holding a legal or beneficial interest in property;

8. "Personal property" includes any personal property, or any interest in such personal property, or any right, including bank accounts, debts, corporate stocks, patents or copyrights. Personal property and beneficial interest in personal property shall be deemed to be located where the trustee, the personal property, or the instrument evidencing the right is located;

9. "Principal" means a person who engages in conduct constituting a violation of the Oklahoma Corrupt Organizations Prevention Act or who is legally accountable for the conduct of another who engages in a violation of the Oklahoma Corrupt Organizations Prevention Act;

10. "Racketeering activity" means engaging in, attempting to engage in, conspiring to engage in, or soliciting, coercing, or intimidating another person to engage in any conduct which is chargeable or indictable as constituting a felony violation of one or more of the following provisions of the Oklahoma Statutes, regardless of whether such act is in fact charged or indicted:

- a. relating to homicide pursuant to the provisions of Sections 651, 652, 653, 701.7, 701.8, 701.16, 711 or 716 of Title 21 of the Oklahoma Statutes or relating to concealment of homicidal death pursuant to the provisions of Section 543 of Title 21 of the Oklahoma Statutes,
- b. relating to kidnapping pursuant to the provisions of Sections 741, 745, 891 or 1119 of Title 21 of the Oklahoma Statutes,
- c. relating to sex offenses pursuant to the provisions of Sections 886, 888, 1021, 1021.2, 1021.4, 1024.2,

1040.51, 1111, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes,

- d. relating to bodily harm pursuant to the provisions of Sections 645, 650, 650.2, 1289.16, 1302, 1303 or 1767.1 of Title 21 of the Oklahoma Statutes,
- e. relating to theft, where the offense constitutes a felony, pursuant to the provisions of Sections 1704, 1707, 1708, 1709, 1710, 1711, 1713, 1716, 1719, 1720, 1721, 1722, 1723 or 1731 of Title 21 of the Oklahoma Statutes,
- f. relating to forgery pursuant to the provisions of Sections 1561, 1562, 1571, 1572, 1574, 1575, 1577, 1578, 1579, 1580, 1581, 1582, 1583, 1584, 1585, 1586, 1587, 1588, 1589, 1590, 1591 or 1593 of Title 21 of the Oklahoma Statutes,
- g. relating to robbery pursuant to the provisions of Sections 797, 800 or 801 of Title 21 of the Oklahoma Statutes,
- h. relating to burglary pursuant to the provisions of Sections 1431, 1435 or 1437 of Title 21 of the Oklahoma Statutes,
- i. relating to arson pursuant to the provisions of Sections 1368, 1401, 1402, 1403 or 1404 of Title 21 of the Oklahoma Statutes,
- j. relating to use or possession of a firearm or other offensive weapon while committing or attempting to commit a felony pursuant to the provisions of Sections 1287, 1289.20 or 1289.21 of Title 21 of the Oklahoma Statutes,
- k. relating to gambling pursuant to the provisions of Sections 941, 942, 944, 945, 946, 948, 954, 956, 957, 962, 969, 970, 971, 981, 982, 983, 984, 985, 986, 987,

991, 992, 995.7, 995.8, 995.11 or 995.12 of Title 21 of the Oklahoma Statutes,

- l. relating to bribery in contests pursuant to the provisions of Sections 399 or 400 of Title 21 of the Oklahoma Statutes,
- m. relating to interference with public officers pursuant to the provisions of Sections 434, 436, 437, 438, 439, 440, 441, 443, 444, 521, 522, 532, 540, 543, 545 or 546 of Title 21 of the Oklahoma Statutes,
- n. relating to interference with judicial procedure pursuant to the provisions of Sections 388, 453, 455, 456, 491, 496 or 504 of Title 21 of the Oklahoma Statutes,
- o. relating to official misconduct pursuant to the provisions of Sections 380, 381, 382, 383, 384, 385, 386, 389, 390, 950 or 976 of Title 21 of the Oklahoma Statutes,
- p. relating to the Uniform Controlled Dangerous Substances Act, where the offense constitutes a felony, pursuant to the provisions of Section 2-101 et seq. of Title 63 of the Oklahoma Statutes,
- q. relating to automobile theft pursuant to the provisions of Sections 4-102, 4-103, 4-107, 4-108, 4-109 or 4-110 of Title 47 of the Oklahoma Statutes,
- r. relating to embezzlement pursuant to the provisions of Section 1412 of Title 6 of the Oklahoma Statutes, Section 641 of Title 19 of the Oklahoma Statutes, Sections 341, 531, 1451, 1452, 1453, 1454, 1455, 1456, 1463 or 1464 of Title 21 of the Oklahoma Statutes, Section 163.4 of Title 37 of the Oklahoma Statutes, Section 25 of Title 41 of the Oklahoma Statutes, Section 114 of Title 64 of the Oklahoma Statutes or

Sections 506 or 1361 of Title 68 of the Oklahoma Statutes,

- s. relating to extortion, where the offense constitutes a felony, pursuant to the provisions of Sections 1304, 1481, 1482, 1485, 1486 or 1488 of Title 21 of the Oklahoma Statutes,
- t. relating to fraud, where the offense constitutes a felony, pursuant to the provisions of Sections 208.6, 208.7 or 208.8 of Title 3A of the Oklahoma Statutes, Section 552.18 of Title 18 of the Oklahoma Statutes, Sections 358, 1411, 1412, 1413, 1414, 1415, 1416, 1503, 1521, 1541.1, 1541.3, 1542, 1543, 1544, 1550.2, 1550.22, 1550.23, 1550.24, 1550.25, 1550.26, 1550.27, 1550.28, 1550.29, 1550.30, 1550.31, 1550.32, 1632, 1635 or 1662 of Title 21 of the Oklahoma Statutes, Section 243 of Title 56 of the Oklahoma Statutes, or Section 604 of Title 62 of the Oklahoma Statutes,
- u. relating to conspiracy, where the offense constitutes a felony, pursuant to the provisions of Sections 421, 422 or 424 of Title 21 of the Oklahoma Statutes,
- v. relating to prostitution, pornography or obscenity pursuant to the provisions of Sections 1021, 1040.52, 1081, 1085, 1086, 1087 or 1088 of Title 21 of the Oklahoma Statutes,
- w. relating to the Oklahoma Alcoholic Beverage Control Act, where the offense constitutes a felony, pursuant to the provisions of Section 506.1 et seq. of Title 37 of the Oklahoma Statutes,
- x. relating to the Oklahoma Securities Act, where the offense constitutes a felony, pursuant to the provisions of Section 1 et seq. of Title 71 of the Oklahoma Statutes, ~~or~~

- y. relating to trafficking in children pursuant to the provisions of Sections 866 and 867 of Title 21 of the Oklahoma Statutes, or
- z. relating to terrorism pursuant to the provisions of the Oklahoma Antiterrorism Act, Sections 8 through 12 of this act;

In addition, "racketeering activity" may be proven by proof of engaging in, attempting to engage in, conspiring to engage in, or soliciting, coercing, or intimidating another person to engage in any of the above described conduct within another state, regardless of whether said conduct is chargeable or indictable in that state.

11. "Real property" means any real property or any interest in real property, including any lease of, or mortgage upon real property. Real property and beneficial interest in real property shall be deemed to be located where the real property is located;

12. "Trustee" includes trustees, a corporate as well as a natural person and a successor or substitute trustee in accordance with the Oklahoma Trust Act, Section 175.1 et seq. of Title 60 of the Oklahoma Statutes; and

13. "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is unenforceable in the courts of Oklahoma, because the debt was incurred or contracted in violation of a law relating to the business of gambling activity or in violation of federal or state law but does not include any debt owed to a bank, savings and loan association, credit union or supervised lender licensed by the Oklahoma Administrator of Consumer Credit or to any debt referred or assigned to a debt collection agency, which referral or assignment is accepted in good faith by the debt collection agency as a debt collectible under the Uniform Commercial Code or other laws of this state and enforceable in the courts of this state.

SECTION 14. AMENDATORY 25 O.S. 2001, Section 307, is amended to read as follows:

Section 307. A. No public body shall hold executive sessions unless otherwise specifically provided in this section.

B. Executive sessions of public bodies will be permitted only for the purpose of:

1. Discussing the employment, hiring, appointment, promotion, demotion, disciplining or resignation of any individual salaried public officer or employee;

2. Discussing negotiations concerning employees and representatives of employee groups;

3. Discussing the purchase or appraisal of real property;

4. Confidential communications between a public body and its attorney concerning a pending investigation, claim, or action if the public body, with the advice of its attorney, determines that disclosure will seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation, or proceeding in the public interest;

5. Permitting district boards of education to hear evidence and discuss the expulsion or suspension of a student when requested by the student involved or his parent, attorney or legal guardian;

6. Discussing matters involving a specific handicapped child;

7. Discussing any matter where disclosure of information would violate confidentiality requirements of state or federal law; ~~or~~

8. Engaging in deliberations or rendering a final or intermediate decision in an individual proceeding pursuant to Article II of the Administrative Procedures Act; or

9. Discussing investigations of acts of terrorism, vulnerability assessments of state agencies, defensive plans, and response plans relating to acts of terrorism or the Catastrophic Emergency Health Powers Act.

C. Notwithstanding the provisions of subsection B of this section, the following public bodies may hold executive sessions:

1. The State Banking Board, as provided for under Section 306.1 of Title 6 of the Oklahoma Statutes;

2. The Oklahoma Industrial Finance Authority, as provided for in Section 854 of Title 74 of the Oklahoma Statutes;

3. The Oklahoma Development Finance Authority, as provided for in Section 5062.6 of Title 74 of the Oklahoma Statutes;

4. The Oklahoma Center for the Advancement of Science and Technology, as provided for in Section 5060.7 of Title 74 of the Oklahoma Statutes;

5. The Oklahoma Savings and Loan Board, as provided for under subsection A of Section 381.74 of Title 18 of the Oklahoma Statutes;

6. The Oklahoma Health Research Committee for purposes of conferring on matters pertaining to research and development of products, if public disclosure of the matter discussed would interfere with the development of patents, copyrights, products, or services;

7. A review committee, as provided for in Section 855 of Title 62 of the Oklahoma Statutes;

8. The Child Death Review Board for purposes of receiving and conferring on matters pertaining to materials declared confidential by law;

9. The Domestic Violence Fatality Review Board as provided in Section ~~4~~ 1601 of ~~this act~~ Title 22 of the Oklahoma Statutes;

10. All nonprofit foundations, boards, bureaus, commissions, agencies, trusteeships, authorities, councils, committees, public trusts, task forces or study groups supported in whole or part by public funds or entrusted with the expenditure of public funds for purposes of conferring on matters pertaining to economic development, including the transfer of property, financing, or the creation of a proposal to entice a business to locate within their

jurisdiction if public disclosure of the matter discussed would interfere with the development of products or services or if public disclosure would violate the confidentiality of the business; and

11. The Oklahoma Indigent Defense System Board for purposes of discussing negotiating strategies in connection with making possible counteroffers to offers to contract to provide legal representation to indigent criminal defendants and indigent juveniles in cases for which the System must provide representation pursuant to the provisions of the Indigent Defense System Act, Section 1355 et seq. of Title 22 of the Oklahoma Statutes.

D. An executive session for the purpose of discussing the purchase or appraisal of real property shall be limited to members of the public body, the attorney for the public body, and the immediate staff of the public body. No landowner, real estate salesperson, broker, developer, or any other person who may profit directly or indirectly by a proposed transaction concerning real property which is under consideration may be present or participate in the executive session.

E. No public body may go into an executive session unless the following procedures are strictly complied with:

1. The proposed executive session is noted on the agenda as provided in Section 311 of this title;

2. The executive session is authorized by a majority vote of a quorum of the members present and the vote is a recorded vote; and

3. Except for matters considered in executive sessions of the State Banking Board and the Oklahoma Savings and Loan Board, and which are required by state or federal law to be confidential, any vote or action on any item of business considered in an executive session shall be taken in public meeting with the vote of each member publicly cast and recorded.

F. A willful violation of the provisions of this section shall:

1. Subject each member of the public body to criminal sanctions as provided in Section 314 of this title; and

2. Cause the minutes and all other records of the executive session, including tape recordings, to be immediately made public.

SECTION 15. AMENDATORY 27A O.S. 2001, Section 4-1-101, is amended to read as follows:

Section 4-1-101. A. This article shall be known and may be cited as the "Oklahoma Emergency Response Coordination and Notification Act".

B. The purpose of the Oklahoma Emergency Response Coordination and Notification Act is to:

1. Provide a rapid, coordinated and effective network for response to dangerous substances incidents or events and acts or threats of terrorism relating to the release or likelihood of a release of a dangerous substance necessary to protect the public health and safety and the environment of this state, and to preserve property;

2. Provide direction and information to responders for the management of dangerous substances incidents or events and acts or threats of terrorism relating to the release or likelihood of a release of a dangerous substance;

3. Reduce duplication of effort between local, county and state entities; and

4. Organize, prepare and coordinate all state available manpower, materials, supplies, equipment, facilities and services necessary for dangerous substances response.

SECTION 16. AMENDATORY 27A O.S. 2001, Section 4-1-102, is amended to read as follows:

Section 4-1-102. For purposes of the Oklahoma Emergency Response Coordination and Notification Act:

1. "State environmental agency" includes:

a. the Oklahoma Water Resources Board,

- b. the Corporation Commission,
- c. the State Department of Agriculture,
- d. the Oklahoma Conservation Commission,
- e. the Department of Wildlife Conservation,
- f. the Department of Mines and Mining,
- g. the Department of Public Safety,
- h. the Department of Labor,
- i. the Department of Environmental Quality, ~~and~~
- j. the Department of Civil Emergency Management, and
- k. the Department of Transportation;

2. "Lead official" means the person designated by the contact agency to be the official in charge of the on-site management of the emergency;

3. "Emergency" means a sudden and unforeseeable occurrence or condition either as to its onset or as to its extent, ~~of such severity or magnitude that~~ or threat or act of terrorism related to the release or likelihood of a release of a dangerous substance for which immediate emergency response or action is necessary to preserve the health and safety of the public or environment or to preserve property;

4. "Dangerous substance" means explosives, gases, flammable liquids and solids, poisons, radioactive materials, hazardous materials, deleterious substances, oil, or other substance or material in a quantity or form capable of posing an unreasonable risk to public health and safety, property or to the environment;

5. "Release" means a spill, leakage, seepage, discharge, emission, escape, disposal or ~~escaping~~ injection of a dangerous substance into the environment of the state;

6. "Extreme emergency" means any emergency ~~which~~ of such severity or magnitude that it requires immediate protective actions;

7. "Protective actions" are those steps deemed necessary by first responders to an extreme emergency to preserve the health and

safety of the emergency responders, the public and the protection of the environment ~~and~~ or property during an incident or event involving the release of a dangerous substance. Protective actions include but are not limited to area isolation, evacuation, dilution, cooling, encapsulation, chemical treatment and diking;

8. "First responder" means the first person to arrive at the scene of an incident involving the release or likelihood of a release of a dangerous substance who has the authority by virtue of that person's position as a local law enforcement officer, peace officer, fire protection officer or Oklahoma Highway Patrol Officer or other law enforcement officer;

9. "Contact agency" means a municipality, fire department or the Oklahoma Highway Patrol as determined by the location of an incident or event as follows:

	Location	Contact Agency
a.	Inside corporate municipal limits	Municipal Fire Department
b.	Outside corporate limits on private property	Closest Municipal Fire Department
c.	Outside corporate limits on federal/state highway, public property, county road, or a railroad;	Oklahoma Highway Patrol;

10. "Responsible party" means any person whose negligent or intentional act or omission caused a release of a dangerous substance, any person who owned or had custody or control of the dangerous substance at the time of such release without regard to fault or proximate cause, any person who owned or had custody or control of the container which held the dangerous substance at the time of or immediately prior to such release without regard to fault or proximate cause, or any person who owned, operated, or otherwise controlled activities at ~~the~~ a facility at the time the incident or

event involving ~~releases~~ a release or the likelihood of a release of
a dangerous substances requiring protective actions occurred
substance; and

11. "Facility" means:

- a. any building, structure, installation, equipment, pipe or pipeline, including any pipe into a sewer or publicly owned treatment works, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft, or
- b. any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise came to be located, or
- c. any vessel, including every description of watercraft or other artificial conveyance used, or capable of being used, as a means of transportation on water;

12. "Person" means any natural person, business, firm, copartnership, partnership, joint venture, association, unincorporated association, joint-stock association, corporation, limited liability company, estate, trust, business trust, syndicate, or any group or combination acting as a unit, or any receiver appointed by the state or federal court, or any other legal entity, or the executor, administrator, trustee, receiver, assignee, or personal representative thereof. "Person" shall not include the State of Oklahoma, or any county, city, municipality, school district or other political subdivision thereof; and

13. "Regional emergency response team" means the team created pursuant to Section 21 of this act for the region in which an incident or event involving the release or the likelihood of a release of a dangerous substance has occurred.

SECTION 17. AMENDATORY 27A O.S. 2001, Section 4-1-103, is amended to read as follows:

Section 4-1-103. A. For incidents or events involving releases or the likelihood of a release of dangerous substances ~~requiring protective actions~~, the first responder shall be responsible for initial evaluation of the incident or event and implementation of protective action measures as necessary.

B. As soon as reasonably possible after arriving at the scene of the incident or event, the first responder shall notify the lead official to respond to such an incident or event pursuant to subsection C of this section. The first responder shall ~~maintain such~~ have authority to implement protective action measures, which do not duplicate any efforts of the Oklahoma Highway Patrol Division of the Department of Public Safety, until the lead official arrives or until the incident or event is stabilized.

C. Each contact agency specified to respond to an emergency involving a dangerous substance ~~incident requiring emergency response~~ shall designate lead officials who shall be capable of responding on a twenty-four-hour basis to such an ~~incident~~ emergency.

D. Upon arrival at the ~~incident~~ scene of an incident or event involving a dangerous substance, the lead official will immediately assume responsibility for management of the incident or event. All other responding emergency persons are to assist the lead official in the discharge of such official's duties.

E. If the lead official believes the incident or event involving the release or likelihood of a release of a dangerous substance is beyond the capabilities of the contact agency to adequately protect the public health or safety, the environment or property, the lead official may request the regional emergency response team to provide technical advise or assistance to control or stabilize the dangerous substance.

F. 1. If the first responder or the lead official believes the incident or event to be of a significant nature to threaten the

public health~~7~~ and safety ~~or~~1, the environment or property, or if required by state or federal law, the first responder or lead official shall contact the Department of Environmental Quality as soon as is reasonably possible. The Department of Environmental Quality shall maintain a twenty-four-hour toll free statewide telephone number to report emergencies.

~~F.~~ 2. The Department of Environmental Quality shall, as necessary and as possible:

~~1.~~ Provide

a. provide technical information or advice to the lead official~~7~~1

~~2.~~ Provide

b. provide for personnel for assistance in completing ~~material~~ substance identification~~7~~1

~~3.~~ Provide

c. provide technical assistance on or initiate procedures for containment or suppression of the release~~7~~1

~~4.~~ Provide

d. provide sampling, analysis and monitoring~~7~~1

~~5.~~ Notify

e. notify the responsible party of the release~~7~~1 and

~~6.~~ Oversee

f. oversee the planning of final containment, cleanup and recovery of dangerous ~~materials~~ substances.

~~G.~~ 3. The Department of Environmental Quality is authorized~~1~~, when determined to be necessary to protect the public health~~7~~ and safety ~~and welfare of~~1, the environment and property, to initiate cleanup operations of the release based upon seriousness of the release, location of the release, threat of the release to the public health and safety ~~or~~1, the environment or property, responsiveness of the responsible party, or authorization of the responsible party.

4. The responsible party shall be liable for any expenses incurred in any cleanup operation.

~~H.~~ G. 1. Upon the release of dangerous substances ~~requiring protective actions~~, the responsible party shall take immediate emergency response measures as directed by the first responder or the lead official assuming responsibilities for management of the incident or event and/or the Department of Environmental Quality if contacted by the first responder or lead official pursuant to subsection ~~E~~ F of this section.

2. If the responsible party fails to take immediate emergency response measures as required pursuant to paragraph 1 of this subsection, the contact agency, the district attorney of the county where the release occurred or the Department of Environmental Quality, as applicable, is authorized to apply for a temporary order to compel the responsible party to take such immediate emergency response measures.

~~F.~~ H. 1. In not less than four (4) hours nor more than seven (7) days, as determined by the contact agency or the Department of Environmental Quality, as applicable, the responsible party shall provide a written action plan for the proposed cleanup operations to the contact agency and shall initiate cleanup operations.

2. The contact agency, the district attorney of the county where the release occurred or the Department of Environmental Quality, as applicable, is authorized to apply for a temporary and permanent court order to compel the responsible party to provide the written action plan and to abate the release and restore the release site.

~~F.~~ I. The Department of Environmental Quality shall maintain a list of persons qualified to provide the services necessary to take corrective actions to abate and restore release sites.

~~K.~~ J. The lead official may request the Department of Civil Emergency Management to provide state resources in managing an

emergency or extreme emergency. If the lead official does not request that the Department of Civil Emergency Management provide state resources in managing an emergency or extreme emergency, the lead official shall notify the Department of Civil Emergency Management after the emergency or extreme emergency no longer poses an immediate threat to the public's health or safety or the environment of the release of dangerous substances.

~~L.~~ K. The Department of Civil Emergency Management shall keep a record of each emergency or extreme emergency which includes but is not limited to the location, first responder, lead official, type of emergency or extreme emergency, and actions taken to address ~~said~~ the emergency or extreme emergency.

~~M.~~ L. At the request of the contact agency, the Department of Civil Emergency Management shall provide assistance to the contact agency, in either reviewing the emergency procedure or emergency management plan used in managing the completed emergency or extreme emergency within the contact agency's jurisdiction.

SECTION 18. AMENDATORY 27A O.S. 2001, Section 4-1-104, is amended to read as follows:

Section 4-1-104. A. The provisions of the Oklahoma Emergency Response Coordination and Notification Act shall not be construed to effect or remove the liability of the person who owns the dangerous substance for injury or damages incurred as a result of the release or likelihood of a release of ~~the~~ a dangerous substance.

B. Any responsible party who causes a dangerous substance incident or event shall be liable to the State of Oklahoma or any political subdivision thereof for the payment of all reasonable direct costs incurred in response to, stabilization of, and any necessary monitoring of the incident or event by the state or political subdivision thereof.

C. Any state agency or political subdivision of the state incurring any reasonable costs in response to an incident or event

including a dangerous substance may seek all available remedies of law including, but not limited to, the provisions of the Oklahoma Emergency Response Coordination and Notification Act and those actions and remedies available under the United States Bankruptcy Code relating to such matters, against any responsible party for the dangerous substance incident or event.

SECTION 19. AMENDATORY 27A O.S. 2001, Section 4-1-105, is amended to read as follows:

Section 4-1-105. A. During or after a release of a dangerous substance and as part of any required cleanup operations or remediation requirements, any duly authorized representative of the first responder, the contact agency, any member of the regional emergency response team, the Department of Civil Emergency Management or the Department of Environmental Quality shall have the authority to enter upon any private or public property for the purpose of responding to and stabilizing ~~an~~ the incident or event involving a release of dangerous substances ~~requiring protective action measures~~.

B. 1. The contact agency or the Department of Environmental Quality, as applicable, may require the establishment and maintenance of records and reports relating to the incident or event.

2. Copies of such records or reports shall be submitted to the requesting agency.

3. Any authorized representative of the contact agency or the Department of Environmental Quality, as applicable, shall be allowed access and may examine such records or reports.

C. 1. A contact agency or the Department of Environmental Quality may apply to and obtain from a judge of the district court, an order authorizing an administrative warrant or other warrant to enforce access to premises for the purpose of responding to and stabilizing an incident or event involving releases of dangerous

substances ~~requiring protective action measures~~ or for the purpose of examining records or reports relating thereto.

2. Failure to obey an administrative warrant or other warrant of the district court may be punished by the district court as a contempt of court.

SECTION 20. AMENDATORY 27A O.S. 2001, Section 4-1-106, is amended to read as follows:

Section 4-1-106. A. The Attorney General or the district attorney of the county where the release occurs may bring an action in a court of competent jurisdiction for the prosecution of a violation of the Oklahoma Emergency Response Coordination and Notification Act by the responsible party.

B. 1. Any action for injunctive relief to redress or restrain a violation of the Oklahoma Emergency Response Coordination and Notification Act by such responsible party may be brought by the district attorney of the county where the release occurred, as applicable, the contact agency, or the Attorney General or the Department of Environmental Quality on behalf of the State of Oklahoma.

2. It shall be the duty of the Attorney General or district attorney, if so requested, to bring such actions.

C. The court shall have jurisdiction to determine such action and to grant the necessary or appropriate relief including, but not limited to, mandatory or prohibitive injunctive relief and interim equitable relief, and for inhibiting emergency response to an incident or event, punitive damages.

D. A responsible party who violates any of the provisions of, or who fails to perform any duty imposed by, the Oklahoma Emergency Response Coordination and Notification Act shall, upon conviction thereof, be guilty of a misdemeanor and may be punished by a fine of not less than Two Hundred Dollars (\$200.00) and not more than Ten Thousand Dollars (\$10,000.00) per day for each violation. Each day

or part of a day upon which such violation occurs shall constitute a separate offense.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-106a of Title 47, unless there is created a duplication in numbering, reads as follows:

A. In order to provide statewide specialized response teams designed to provide a coordinated response to emergencies involving dangerous substances, there is hereby created within the Department of Public Safety, the Division of Dangerous Substances Emergency Response. The Commissioner of Public Safety is hereby authorized to appoint a Director of Dangerous Substances Emergency Response. The Director shall be in the unclassified service and shall have no less than two (2) years' experience in dangerous substances emergency response and team leadership and a degree in a related applied science field from an accredited college or university. If the person appointed as Director is a member of a state retirement system, the appointee shall be eligible to continue participation in that system. If the person appointed as Director is not a member of a state retirement system, the appointee shall be eligible to participate in the Oklahoma Public Employees Retirement System; provided, no person appointed as Director shall be eligible for participation in the Oklahoma Public Employees Retirement System if the appointee is already receiving retirement benefits from a state retirement system. The Commissioner shall be authorized to employ a staff of division personnel including, but not limited to:

1. A training coordinator;
2. A logistics and procurement coordinator; and
3. Administrative support personnel.

B. The Department of Public Safety shall establish, by rule, a plan for the effective implementation of a statewide dangerous substances emergency response system. The statewide dangerous

substances emergency response system shall include, but not be limited to:

1. Provisions for coordinating the duties and responsibilities of regional dangerous substances emergency response teams, including related procedures for twenty-four-hour dispatching and emergency communications. The purpose of the teams is to provide emergency response to incidents or events involving dangerous substances, through standard operating procedures which will assist the first responders, contact agencies, lead officials, the Department of Environmental Quality or the Department of Civil Emergency Management in controlling or stabilizing the incident or event and/or providing technical assistance to such agencies or persons;

2. A schedule of fees for computing the reimbursement for reasonable response costs incurred by a regional response team as authorized by the Department; and

3. Provisions for ongoing training programs for local government and state agency employees involved in response to incidents or events involving the release of dangerous substances pursuant to the Oklahoma Emergency Response Coordination and Notification Act. The Department may coordinate its training programs with emergency response training programs offered by local, state and federal agencies, community colleges and institutes of higher education and private industry in order to reach the maximum number of employees, avoid unnecessary duplication and conserve limited training funds.

C. In order to protect life, property and the environment against emergencies involving dangerous substances, the Department may assign and make available for use and duty in any county, city or district, under the direction and command of a person designated by the Department, a regional emergency response team and specialized equipment that may be necessary to respond to an incident or event involving the release of dangerous substances

pursuant to the Oklahoma Emergency Response Coordination and Notification Act.

D. 1. In order to accomplish the purposes of this section, the Department may lease equipment and personnel and make grants for training and for personnel costs, as funds are available, to any local government participating in the statewide dangerous substances emergency response system.

2. In allocating state equipment and personnel grants pursuant to this section, the Department may provide up to eighty percent (80%) of the financing for the equipment and personnel. A local government receiving grant moneys shall contribute at least twenty percent (20%) to the costs. Such contribution may be in a form agreed upon by the local government and the Department. Contributions may include, but are not limited to, providing emergency response to areas outside the local jurisdiction, paying of insurance costs of the equipment or providing maintenance for the equipment.

E. The Department and any local government may enter into contracts concerning eligible equipment or personnel loans or equipment purchases. The contract may include any provisions agreed upon by the parties thereto, and for grants shall include the following provisions:

1. An estimate of the reasonable personnel costs or cost of the eligible equipment purchases, as determined by the Department;

2. An agreement by the local government to:

- a. proceed expeditiously with, and complete, the equipment purchases in accordance with plans approved by the Department, and
- b. provide for the payment of the local government's share of the personnel costs or the cost of the equipment purchases;

3. The Department shall promulgate rules necessary for executing and enforcing contracts pursuant to this section and establishing procedures to be followed in applying for state equipment and personnel loans or grants authorized by this section; and

4. All payments by the state pursuant to such contracts shall be made after audit and upon warrant on vouchers approved by the Department.

F. 1. There is hereby created in the State Treasury a revolving fund for the Department to be designated the "Dangerous Substances Emergency Response Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies received by the Department as reimbursements from responsible parties for reasonable actions taken and costs incurred by a regional team for an incident or event involving a dangerous substance; reimbursements or grants or other monies received from other state agencies and entities of government; all reimbursements or grants or other monies received by the Department from the United States government or pursuant to proceedings in district court to enforce claims initiated pursuant to this section or the Oklahoma Emergency Response Coordination and Notification Act; gifts, donations and bequests; monies appropriated or apportioned by the state; and receipts from other ancillary services related to incidents or events related to dangerous substances, not otherwise provided by law.

2. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department for operating expenses, administrative duties pursuant to this section, and education and reimbursement for expenses of regional teams.

3. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 22. AMENDATORY 47 O.S. 2001, Section 6-106, is amended to read as follows:

Section 6-106. A. Every application for a driver license shall be made by the applicant upon a form furnished by the Department of Public Safety. Every applicant for a driver license shall provide to the Department at the time of application both primary and secondary proofs of identity. The Department shall promulgate rules prescribing forms of primary and secondary identification acceptable for an original Oklahoma driver license.

B. Every applicant for a driver license shall state upon the application the following information:

1. Full name;
2. Date of birth;
3. Sex;
4. Residence address and mailing address, if different than the residence address;
5. Medical information, as determined by the Department, which shall assure the Department that the person is not prohibited from being licensed as provided by paragraph 7 of subsection A of Section 6-103 of this title;
6. Whether the applicant is deaf or hard-of-hearing;
7. The license plate number and state by which the license plate is issued for up to two (2) vehicles owned by the applicant;
8. A brief description of the applicant, as determined by the Department;
9. Whether the applicant has previously been licensed, and, if so, when and by what state or country, and whether any such license has ever been suspended or revoked, or whether an application has ever been refused, and, if so, the date of and reason for such suspension, revocation or refusal; ~~and~~
10. Social security number; and
11. Proof of citizenship.

No person shall request the Department to use the social security number of that person as the driver license number. Upon renewal or replacement of any driver license issued after the effective date of this act, the licensee shall advise the Department or the motor license agent if the present driver license number of the licensee is the social security number of the licensee. If the driver license number is the social security number, the Department or the motor license agent shall change the driver license number to a computer-generated number.

C. Whenever application is received from a person previously licensed in another jurisdiction, the Department shall request a copy of the driving record from such other jurisdiction. When received, the driving record shall become a part of the driving record of the person in this state with the same force and effect as though entered on the driver's record in this state in the original instance.

D. Whenever the Department receives a request for a driving record from another licensing jurisdiction, the record shall be forwarded without charge.

E. If an applicant for a driver license owns a vehicle which is not currently registered pursuant to the Oklahoma Vehicle License and Registration Act, the application shall be denied. The Department of Public Safety and the Oklahoma Tax Commission shall promulgate rules to administer the provisions of this subsection.

F. Any applicant for a driver license requesting a hazardous materials endorsement pursuant to Section 6-110.1 of this title shall provide to the Department at the time of application a criminal history background record from the Oklahoma State Bureau of Investigation.

SECTION 23. AMENDATORY 47 O.S. 2001, Section 6-111, is amended to read as follows:

Section 6-111. A. 1. The Department of Public Safety shall, upon payment of the required fee, issue to every applicant qualifying therefor a Class A, B, C or D driver license or identification card as applied for, which license or card shall bear thereon a distinguishing number assigned to the licensee or cardholder, date of issuance and date of expiration of the license or card, the full name, signature or computerized signature, date of birth, mailing address, sex, citizenship, a color photograph or computerized image of the licensee or cardholder and security features as determined by the Department.

2. The Department may cancel the distinguishing number, when that distinguishing number is another person's Social Security number, assign a new distinguishing number, and issue a new license or identification card without charge to the licensee or cardholder.

3. The Department may promulgate rules for inclusion of the height and a brief description of the licensee or cardholder on the face of the card or license, and for the provision of a small decal for attachment to the card or license, identifying the licensee or cardholder as deaf or hard-of-hearing.

4. The Department shall promulgate rules for provision of a small decal for attachment to the card or license, identifying the licensee or cardholder as having executed an Advance Directive for Health Care and/or a Do Not Resuscitate order pursuant to Section 3101.4 of Title 63 of the Oklahoma Statutes. It is unlawful for any person to apply, adhere, or otherwise attach to a driver license or identification card any decal, sticker, label, or other attachment which is not provided for in this subsection. Any law enforcement officer is authorized to remove and dispose of any unlawful decal, sticker, label, or other attachment from the driver license of a person. The law enforcement officer, the employing agency of the officer, the Department of Public Safety, and the State of Oklahoma shall be immune from any liability for any loss suffered by the

licensee, cardholder, or the owner of the decal, sticker, label, or other attachment caused by the removal and destruction of the decal, sticker, label, or other attachment.

5. The Department of Public Safety shall develop an alternative procedure whereby an individual applying for a new or renewal Class D license who satisfactorily demonstrates to the Department the inability to appear personally to be photographed, shall be issued a license or card bearing the words "Valid Without Photo".

B. The Department may issue a temporary permit to an applicant for a driver license permitting such applicant to operate a motor vehicle while the Department is completing its investigation and determination of all facts relative to such applicant's privilege to receive a license. Such permit must be in the immediate possession of the driver while operating a motor vehicle, and it shall be invalid when the applicant's driver license has been issued or for good cause has been refused.

C. 1. The Department may issue a restricted commercial driver license to seasonal drivers eighteen (18) years of age or older for any of the following specific farm-related service industries:

- a. farm retail outlets and suppliers,
- b. agri-chemical businesses,
- c. custom harvesters, and
- d. livestock feeders.

The applicant shall hold a valid Oklahoma driver license and shall meet all the requirements for a commercial driver license except for the commercial driver license skills and knowledge tests. The restricted commercial driver license shall not exceed a total of one hundred eighty (180) days within any twelve-month period.

2. The restricted commercial driver license shall not be valid for operators of commercial motor vehicles beyond one hundred fifty (150) miles from the place of business or the farm currently being served. Such license shall be limited to Class B and Class C

vehicles. Holders of such licenses who transport hazardous materials which are required to be placarded shall be limited to the following:

- a. diesel fuel in quantities of one thousand (1,000) gallons or less,
- b. liquid fertilizers in vehicles with total capacities of three thousand (3,000) gallons or less, and
- c. solid fertilizers that are not mixed with any organic substance.

No other placarded hazardous materials shall be transported by holders of such licenses.

SECTION 24. AMENDATORY 47 O.S. 2001, Section 6-301, is amended to read as follows:

Section 6-301. It shall be unlawful for any person to commit any of the acts specified in paragraph 1 or 2 of this section in relation to an Oklahoma ~~driver's~~ driver license or identification card authorized to be issued by the Department of Public Safety pursuant to the provisions of Sections 6-101 through 6-309 of this title or any driver license or other evidence of driving privilege or identification card authorized to be issued by the state of origin.

1. It is a misdemeanor for any licensee:

- a. to display or cause or permit to be displayed one's own license after such license has been suspended, revoked or canceled or to possess one's own license after having received notice of its suspension, revocation, or cancellation,
- b. to lend one's own license or identification card to any other person or knowingly permit the use thereof by another,
- c. to display or cause or permit to be displayed or to possess a license or identification card issued to

oneself which bears altered information concerning the date of birth, expiration date, sex, height, eye color, weight or license or card number,

- d. to fail or refuse to surrender to the Department upon its lawful demand any license or identification card which has been suspended, revoked or canceled,
- e. to permit any unlawful use of a license or identification card issued to oneself,
- f. to do any act forbidden or fail to perform any act required by this chapter, excepting those acts as provided in paragraph 2 of this section, or
- g. to display or represent as one's own, any license or identification card not issued to such person, unless under conditions provided in subparagraph e of paragraph 2 of this section.

2. It is a felony for any person:

- a. to create, publish or otherwise manufacture an Oklahoma or other state license or identification card or facsimile thereof, or to create, manufacture or possess an engraved plate or other such device for the printing of an Oklahoma or other state license or identification card or facsimile thereof, except as authorized pursuant to this title,
- b. to display or cause or permit to be displayed or to knowingly possess any state counterfeit or fictitious license or identification card,
- c. to display or cause to be displayed or to knowingly possess any state license or identification card bearing a fictitious or forged name or signature,
- d. to display or cause to be displayed or to knowingly possess any state license or identification card

bearing the photograph of any person, other than the person named thereon as licensee,

- e. to display or represent as one's own, any license or identification card not issued to him, for the purpose of committing a fraud in any commercial transaction or to mislead a peace officer in the performance of his duties, or
- f. to use a false or fictitious name in any application for a license or identification card or to knowingly make a false statement or to knowingly conceal a material fact or otherwise commit a fraud in any such application.

3. It is a felony for any employee or person authorized to issue licenses or identification cards under this title to knowingly issue a license or identification card or knowingly cause a license or identification card to be issued:

- a. to a person not entitled thereto,
- b. bearing erroneous information thereon, or
- c. bearing the photograph of a person other than the person named thereon.

4. The violation of any of the provisions of paragraph 1 of this section shall constitute a misdemeanor and shall, upon conviction thereof, be punishable by a fine of not less than Twenty-five Dollars (\$25.00), nor more than Two Hundred Dollars (\$200.00); the violation of any of the provisions of paragraph 2 or 3 of this section shall constitute a felony and shall, upon conviction thereof, be punishable by a fine not exceeding Ten Thousand Dollars (\$10,000.00) or a term of imprisonment in the State Penitentiary not to exceed seven (7) years, or by both such fine and imprisonment. The violation of any of the provisions of paragraph 2 or 3 of this section in the commission or attempted commission of an act of terrorism pursuant to Section 9 of this act shall constitute

a felony and shall upon conviction thereof be punishable by a term of imprisonment in the State Penitentiary not to exceed ten (10) years.

5. Notwithstanding any provision of this section, the Commissioner of the Department of Public Safety may, upon the request of the chief administrator of a law enforcement, military, or intelligence agency, authorize the issuance to and display, and possession by a person of a license which would otherwise be a violation of this section, for the sole purpose of aiding in a criminal investigation or a military or intelligence operation. While acting pursuant to such authorization by the Commissioner, such person shall not be prosecuted for a violation under this section. Upon termination of such investigation or operation or upon request of the Commissioner, the chief administrator shall forthwith cause such license to be returned to the Commissioner.

SECTION 25. AMENDATORY 47 O.S. 2001, Section 1109, is amended to read as follows:

Section 1109. A. All information contained in certificates of title, applications therefor, vehicle registration records and computer data files is hereby declared to be confidential information and shall not be copied by anyone or disclosed to anyone other than employees of the Oklahoma Tax Commission in the regular course of their employment, except as follows:

1. For use by any governmental agency, including but not limited to any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a federal, state or local governmental agency in carrying out its functions. Information relating to motor vehicle insurance, including the insurer and insurance policy numbers, may be released to law enforcement officers investigating an accident pursuant to the provisions of Section 10-104 of this title;

2. For use by any motor vehicle manufacturer or an authorized representative thereof for the purpose of meeting the requirements of the recall provisions of Title 15 U.S.C. 1974; provided that the manufacturer or representative shall, when requesting information pertaining to motor vehicles, furnish the Tax Commission with an affidavit stating the purpose for which the information is to be used, and that the confidentiality of the information shall be protected, as set out above, and used only for the purpose stated; provided, further, that the Tax Commission shall be authorized to review the use of and the measures employed to safeguard the information; and provided, further, that the manufacturer or representative shall bear the cost incurred by the Tax Commission in the production of the information requested. If the confidentiality provisions, as set out above, are violated, the provisions of subsection D of Section 205 of Title 68 of the Oklahoma Statutes shall apply and the privilege of obtaining information shall be terminated. Any manufacturer or representative violating the provisions of this paragraph, upon conviction, shall be punishable by a fine not to exceed Fifty Thousand Dollars (\$50,000.00);

3. For use by any person compiling and publishing motor vehicle statistics, provided that such statistics do not disclose the names and addresses of individuals. Such information shall be provided upon payment of a fee as determined by the Tax Commission;

4. For use by a wrecker or towing service licensed pursuant to the provisions of Section 951 et seq. of this title for use in providing notice to the owners and secured parties of towed or impounded vehicles, upon payment of a fee of One Dollar (\$1.00) per vehicle record page to the Tax Commission or any motor license agent;

5. For use by a legitimate business or its agents, employees, or contractors for use in the normal course of business, upon

payment of a fee of One Dollar (\$1.00) per vehicle record page to the Tax Commission or any motor license agent, but only:

- a. to verify the accuracy of personal information submitted by the individual to whom the information pertains to the business or its agents, employees, or contractors, or
- b. to obtain the correct information, if such information submitted by the individual to whom the information pertains to the business is not correct, or is no longer correct, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against the individual;

6. For use in connection with any civil, criminal, administrative or arbitral proceeding in any federal, state or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a federal, state or local court, upon payment of a fee of One Dollar (\$1.00) per vehicle record page to the Tax Commission or any motor license agent;

7. For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, anti-fraud activities, rating or underwriting, upon payment of a fee of One Dollar (\$1.00) per vehicle record page to the Tax Commission or any motor license agent;

8. For use by any licensed private investigative agency or licensed security service for any purpose permitted under this subsection, upon payment of a fee of One Dollar (\$1.00) per vehicle record page to the Tax Commission or any motor license agent; or

9. For use by a requester, upon payment of a fee of One Dollar (\$1.00) per vehicle record page to the Tax Commission or any motor license agent, if the requester demonstrates that it has obtained the written consent of the individual to whom the information pertains.

As used in this section, the term "vehicle record page" means a computer-generated printout of the motor vehicle inquiry screen. Information provided on the motor vehicle inquiry screen printout shall include the current vehicle owner name and address, vehicle make, model and year, identifying numbers for the vehicle license plate, certificate of title and vehicle identification number, relevant dates relating to the vehicle registration and certificate of title, and lien status.

B. In addition to the information provided on the vehicle record page, the Tax Commission may, upon written request, release to any requester authorized by the provisions of this section to obtain individual motor vehicle information, corresponding copies of vehicle certificates of title, applications therefor, vehicle registration records and computer data files.

There shall be an informational search and retrieval fee of Five Dollars (\$5.00) per vehicle for such computerized record copies. If the Tax Commission does a manual search and retrieval, the fee for document record copies shall be Seven Dollars and fifty cents (\$7.50) per vehicle. Certified copies of vehicle certificates of title and applications therefor shall be included within the informational search and retrieval by the Tax Commission for a fee of Ten Dollars (\$10.00). Such duly certified copies may be received in evidence with the same effect as the original when the original is not in the possession or under the control of the party desiring to use the same.

C. Requesters authorized by this section to receive motor vehicle information shall submit to the Tax Commission or motor

license agent an affidavit supported by such documentation as the Tax Commission may require, on a form prescribed by the Tax Commission certifying that the information is requested for a lawful and legitimate purpose and will not be further disseminated.

D. Notwithstanding the foregoing, the Tax Commission may allow the release of information from its motor vehicle records upon magnetic tape consisting only of the following information:

1. The date of the certificate of title;
2. The certificate of title number;
3. The type of title issued for the vehicle;
4. The odometer reading from the certificate of title;
5. The year in which the vehicle was manufactured;
6. The vehicle identification number for the vehicle;
7. The make of the vehicle; and
8. The location in which the vehicle is registered.

The Tax Commission shall allow the release of such information upon payment of a fee to be determined by the Tax Commission. The information released as authorized by this subsection may only be used for purposes of detecting odometer rollback or odometer tampering, for determining the issuance in this state or any other state of salvage or rebuilt titles for vehicles or for determining whether a vehicle has been reported stolen in this state or any other state.

E. Notwithstanding the provisions of this section or of Section 205 of Title 68 of the Oklahoma Statutes, the Tax Commission may inform a secured party that taxes and fees are delinquent with respect to a vehicle upon which the secured party has a perfected lien.

F. Fees received by a motor license agent pursuant to the provisions of this section shall not be included in the maximum sum that may be retained by motor license agents as compensation pursuant to the provisions of Section 1143 of this title.

G. All funds collected by the Tax Commission pursuant to the provisions of this section shall be deposited in the Oklahoma Tax Commission Revolving Fund.

H. It is further provided that the provisions of this section shall be strictly interpreted and shall not be construed as permitting the disclosure of any other information contained in the files and records of the Tax Commission.

I. It shall be unlawful for any person to commit any of the following acts:

1. To knowingly obtain or disclose personal information from a motor vehicle record for any use not expressly permitted by this section; or

2. To make false representation to obtain any personal information from an individual's motor vehicle record.

Any violation of the provisions of this section shall constitute a misdemeanor and shall be punishable by the imposition of a fine not exceeding One Thousand Dollars (\$1,000.00), or by imprisonment in the county jail for a term not exceeding one (1) year, or by both such fine and imprisonment. Where applicable, a person convicted of a violation of the provisions of this section shall be removed or dismissed from office or state employment. No liability whatsoever, civil or criminal, shall attach to any member or employee of the Tax Commission for any error or omission in the disclosure of such information.

J. The Oklahoma Tax Commission shall, pursuant to adopted and promulgated administrative rules, establish a standard method and system to ensure the reporting, filing, procuring and maintaining of all information contained in certificates of title, applications therefor, vehicle registration records and computer data files is done in a uniform, controlled, consistent and coherent format.

SECTION 26. AMENDATORY 51 O.S. 2001, Section 24A.5, is amended to read as follows:

Section 24A.5 All records of public bodies and public officials shall be open to any person for inspection, copying, and/or mechanical reproduction during regular business hours; provided:

1. The Oklahoma Open Records Act, Section 24A.1 et seq. of this title, does not apply to records specifically required by law to be kept confidential including:

- a. records protected by a state evidentiary privilege such as the attorney-client privilege, the work product immunity from discovery and the identity of informer privileges, or
- b. records of what transpired during meetings of a public body lawfully closed to the public such as executive sessions authorized under the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes, or
- c. personal information within driver records as defined by the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725, ~~or~~
- d. information in the files of the Board of Medicolegal Investigations obtained pursuant to Sections 940 and 941 of Title 63 of the Oklahoma Statutes that may be hearsay, preliminary unsubstantiated investigation-related findings, or confidential medical information, or
- e. investigations of acts of terrorism, vulnerability assessments of state agencies, defensive plans, and response plans relating to acts of terrorism or the Catastrophic Emergency Health Powers Act.

2. Any reasonably segregable portion of a record containing exempt material shall be provided after deletion of the exempt portions, provided however, the Oklahoma Department of Public Safety shall not be required to assemble for the requesting person specific

information requested from the Oklahoma Department of Public Safety's Driver License file relating to persons whose names and dates of birth or whose driver license numbers are not furnished by the requesting person. The Oklahoma State Bureau of Investigation shall not be required to assemble for the requesting person any criminal history records relating to persons whose names and dates of birth are not furnished by the requesting person.

3. Any request for a record which contains individual records of persons and the cost of copying, reproducing or certifying such individual record which is otherwise prescribed by state law, the cost may be assessed for each individual record, or portion thereof requested as prescribed by state law. Otherwise, a public body may charge a fee only for recovery of the reasonable, direct costs of document copying, or mechanical reproduction. Notwithstanding any state or local provision to the contrary, in no instance shall said document copying fee exceed twenty-five cents (\$0.25) per page for documents having the dimensions of eight and one-half (8 1/2) by fourteen (14) inches or smaller, or a maximum of One Dollar (\$1.00) per copied page for a certified copy. However, if the request:

- a. is solely for commercial purpose, or
- b. would clearly cause excessive disruption of the public body's essential functions,

then the public body may charge a reasonable fee to recover the direct cost of document search; however, publication in a newspaper or broadcast by news media for news purposes shall not constitute a resale or use of data for trade or commercial purpose and charges for providing copies of electronic data to the news media for a news purpose shall not exceed the direct cost of making the copy.

Any public body establishing fees under this act shall post a written schedule of said fees at its principal office and with the county clerk.

In no case shall a search fee be charged when the release of said documents is in the public interest, including, but not limited to, release to the news media, scholars, authors and taxpayers seeking to determine whether those entrusted with the affairs of the government are honestly, faithfully, and competently performing their duties as public servants.

The fees shall not be used for the purpose of discouraging requests for information or as obstacles to disclosure of requested information.

4. The land description tract index of all recorded instruments concerning real property required to be kept by the county clerk of any county shall be available for inspection or copying in accordance with the provisions of the Oklahoma Open Records Act; provided, however, such index shall not be copied and/or mechanically reproduced for the purpose of sale of such information.

5. A public body must provide prompt, reasonable access to its records but may establish reasonable procedures which protect the integrity and organization of its records and to prevent excessive disruptions of its essential functions.

6. A public body shall designate certain persons who are authorized to release records of the public body for inspection, copying, or mechanical reproduction. At least one such person shall be available at all times to release records during the regular business hours of the public body.

SECTION 27. AMENDATORY 70 O.S. 2001, Section 3311 (Section 3, Chapter 312, O.S.L. 2001), is amended to read as follows:

Section 3311. A. There is hereby re-created a Council on Law Enforcement Education and Training which shall be, and is hereby declared to be, a governmental agency of the State of Oklahoma, body politic and corporate, with powers of government and with the authority to exercise the rights, privileges and functions specified

by this act and as hereinafter specified. The Council shall be composed of seven (7) police or peace officers, one selected by each of the following: the Court of Criminal Appeals, the Commissioner of Public Safety, the Board of Directors of the Oklahoma Sheriffs and Peace Officers Association, the Oklahoma Association of Police Chiefs, the Board of Directors of the Oklahoma Sheriffs' Association, the Board of Directors of the Fraternal Order of Police and the Governor. The Director selected by the Council shall be an ex officio member of the Council and shall act as Secretary. The Council on Law Enforcement Education and Training shall select a chair and vice-chair from among its members. Members of the Council on Law Enforcement Education and Training shall not receive a salary for duties performed as members of the Council, but shall be reimbursed for their actual and necessary expenses incurred in the performance of Council duties pursuant to the provisions of the State Travel Reimbursement Act.

B. The Council on Law Enforcement Education and Training is hereby authorized and directed to:

1. Appoint a larger Advisory Council to discuss problems and hear recommendations concerning necessary research, minimum standards, educational needs, and other matters imperative to upgrading Oklahoma law enforcement to professional status;

2. Promulgate rules with respect to such matters as certification, revocation, suspension, withdrawal and reinstatement of certification, minimum courses of study, testing and test scores, attendance requirements, equipment and facilities, minimum qualifications for instructors, minimum standards for basic and advanced in-service courses, and seminars for Oklahoma police and peace officers;

3. Authorize research, basic and advanced courses, and seminars to assist in program planning directly and through subcommittees;

4. Authorize additional staff and services necessary for program expansion;

5. Recommend legislation necessary to upgrade Oklahoma law enforcement to professional status;

6. Establish policies and regulations concerning the number, geographic and police unit distribution, and admission requirements of those receiving tuition or scholarship aid available through the Council. Such waiver of costs shall be limited to duly appointed members of legally constituted local, county, and state law enforcement agencies on the basis of educational and financial need;

7. Appoint a Director and an Assistant Director to direct the staff, inform the Council of compliance with the provisions of this section and perform such other duties imposed on the Council by law;

8. Enter into contracts and agreements for the payment of classroom space, food, and lodging expenses as may be necessary for law enforcement officers attending any official course of instruction approved or conducted by the Council. Such expenses may be paid directly to the contracting agency or business establishment. The food and lodging expenses for each law enforcement officer shall not exceed the authorized rates as provided for in the State Travel Reimbursement Act;

9. Certify canine teams, consisting of a dog and a handler working together as a team, trained to detect controlled dangerous substances;

10. Enter into a lease, loan or other agreement with the Oklahoma Development Finance Authority or a local public trust for the purpose of facilitating the financing of a new facility for its operations and use and pledge, to the extent authorized by law, all or a portion of its receipts of the assessment penalty herein referenced for the payment of its obligations under such lease, loan or other agreement. It is the intent of the Legislature to increase the assessment penalty to such a level or appropriate sufficient

monies to the Council on Law Enforcement Education and Training to make payments on the lease, loan or other agreement for the purpose of retiring the bonds to be issued by the Oklahoma Development Finance Authority or local public trust. Such lease, loan or other agreement and the bonds issued to finance such facilities shall not constitute an indebtedness of the State of Oklahoma or be backed by the full faith and credit of the State of Oklahoma, and the lease, loan or other agreement and the bonds shall contain a statement to such effect; and

11. Accept gifts, bequests, devises, contributions and grants, public or private, of real or personal property.

C. Failure of the Legislature to appropriate necessary funds to provide for expenses and operations of the Council on Law Enforcement Education and Training shall not invalidate other provisions of this section relating to the creation and duties of the Council.

D. 1. No person shall be eligible to complete a basic police course approved by the Council until the Oklahoma State Bureau of Investigation and the Federal Bureau of Investigation have reported to the submitting agency that such person has no felony record, and the employing agency has reported to the Council that such person has undergone psychological testing as provided for in paragraph 2 of this subsection, and the applicant has certified the completion of a high school diploma or a GED equivalency certificate and that the applicant is not participating in a deferred sentence agreement for a felony or a crime involving moral turpitude or is not currently subject to an order of the Council revoking, suspending, or accepting a voluntary surrender of peace officer certification and that the applicant is not currently undergoing treatment for a mental illness, condition, or disorder. For purposes of this subsection, "currently undergoing treatment for mental illness, condition, or disorder" means the person has been diagnosed by a

licensed physician or psychologist as being afflicted with a substantial disorder of thought, mood, perception, psychological orientation, or memory that significantly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life and such condition continues to exist.

2. No person shall be certified as a police or peace officer in this state unless the employing agency has reported to the Council that:

- a. the Oklahoma State Bureau of Investigation and the Federal Bureau of Investigation have reported that such person has no record of a conviction of a felony or crime involving moral turpitude,
- b. such person has undergone psychological evaluation such as the Minnesota Multiphasic Personality Inventory, the California Psychological Inventory (CPI), or other psychological instrument approved by the Council on Law Enforcement Education and Training. The psychological instrument utilized shall be evaluated by a psychologist licensed by the State of Oklahoma, and the employing agency shall certify to the Council that the evaluation was conducted in accordance with this provision and that the employee/applicant is suitable to serve as a peace officer in the State of Oklahoma. Nothing herein shall preclude a psychologist licensed in the state from employing additional psychological techniques to assist the employing agency's determination of the employee/applicant's suitability to serve as a peace officer in the State of Oklahoma. Any person found not to be suitable for employment or certification by the Council shall not be employed, retained in employment as a peace officer, or certified by the

Council for at least one (1) year, at which time the employee/applicant may be re-evaluated by a psychologist licensed by the State of Oklahoma. This section shall also be applicable to all reserve peace officers in the State of Oklahoma,

- c. such person possesses a high school diploma or a GED equivalency certificate, provided this requirement shall not affect those persons who are already employed as a police or peace officer prior to November 1, 1985,
- d. such person is not participating in a deferred sentence agreement for a felony or a crime involving moral turpitude, and
- e. the name, gender, date of birth, and address of such person have been presented to the Department of Mental Health and Substance Abuse Services by the Council. The Department of Mental Health and Substance Abuse Services shall respond to the Council within ten (10) days whether the computerized records of the Department indicate the applicant has ever been involuntarily committed to an Oklahoma state mental institution. In the event that the Department of Mental Health and Substance Abuse Services reports to the Council that the applicant has been involuntarily committed, the Council shall immediately inform the employing agency,

and the Council has determined that such person has satisfactorily completed a basic police course of not less than one hundred twenty (120) hours of accredited instruction for reserve police officers and reserve deputies and not less than three hundred (300) hours for full-time salaried police or peace officers from the Council or curriculum or course of study approved by the Council. Said

training shall include a minimum of four (4) hours of training in the collection, evaluation, processing, and proper uses of criminal intelligence information and data, and training in crime and drug prevention, crisis intervention, and youth and family intervention techniques.

3. Every person who has not been certified as a police or peace officer and is duly appointed or elected as a police or peace officer shall hold such position on a temporary basis only, and shall, within one (1) year from the date of appointment or taking office, qualify as required in this subsection or forfeit such position. In computing the one (1) year, all service shall be cumulative from date of first appointment or taking office as a police or peace officer with any department in this state. The Council may extend the time requirement specified in this paragraph for good cause as determined by the Council. An elected police or peace officer shall be eligible to enroll in a basic police course in accordance with this subsection upon being elected. A duty is hereby imposed upon the employing agency to withhold payment of the compensation or wage of said unqualified officer. If the police or peace officer fails to forfeit the position or the employing agency fails to require the officer to forfeit the position, the district attorney shall file the proper action to cause the forfeiting of such position. The district court of the county where the officer is employed shall have jurisdiction to hear the case.

4. The Council may certify officers who have completed a course of study in another state deemed by the Council to meet standards for Oklahoma peace officers providing the officer's certification in the other state has not been revoked or voluntarily surrendered and is not currently under suspension.

5. For purposes of this section, a police or peace officer is defined as a full-time duly appointed or elected officer who is paid for working more than twenty-five (25) hours per week and whose

duties are to preserve the public peace, protect life and property, prevent crime, serve warrants, and enforce laws and ordinances of this state, or any political subdivision thereof; provided, elected sheriffs and their deputies and elected, appointed, or acting chiefs of police shall meet the requirements of this subsection within the first six (6) months after assuming the duties of the office to which they are elected or appointed or for which they are an acting chief; provided further, that this section shall not apply to persons designated by the Director of the Department of Corrections as peace officers pursuant to Section 510 of Title 57 of the Oklahoma Statutes.

E. No person shall be certified as a police or peace officer by the Council or be employed by the state, a county, a city, or any political subdivision thereof, who is currently subject to an order of the Council revoking, suspending, or accepting a voluntary surrender of peace officer certification or has been convicted of a felony or a crime involving moral turpitude unless a full pardon has been granted by the proper agency; however, any person who has been trained and certified by the Council on Law Enforcement Education and Training and is actively employed as a full-time peace officer as of November 1, 1985, shall not be subject to the provisions of this subsection for convictions occurring prior to November 1, 1985.

F. Every person employed as a police or peace officer in this state shall be fingerprinted by the employing law enforcement agency. One set of said impressions shall be mailed to the Oklahoma State Bureau of Investigation and one set to the Federal Bureau of Investigation, Washington, D.C. within ten (10) days from the initial date of employment.

G. 1. The Council is hereby authorized to provide to any employing agency the following information regarding a person who is or has applied for employment as a police or peace officer of such employing agency:

- a. Oklahoma State Bureau of Investigation and Federal Bureau of Investigation reports,
- b. administration of the psychological tests provided for herein,
- c. performance in the course of study or other basis of certification,
- d. previous certifications issued, and
- e. any administrative or judicial determination denying certification.

2. An employing agency shall not be liable in any action arising out of the release of contents of personnel information relevant to the qualifications or ability of a person to perform the duties of a police or peace officer when such information is released pursuant to written authorization for release of information signed by such person and is provided to another employing agency which has employed or has received an application for employment from such person.

H. A law enforcement agency employing police or peace officers in this state shall report the hiring, resignation, or termination for any reason of a police or peace officer to the Council at a time established by the Council. Failure to comply with the provisions of this subsection may disqualify a law enforcement agency from participating in training programs sponsored by the Council.

I. As used in this section, "employing agency" means a political subdivision or law enforcement agency which either has employed or received an employment application from a person who, if employed, would be subject to this section.

J. 1. The Council may take disciplinary action against a police or peace officer to include a denial, suspension or revocation of peace officer certification on a showing of clear and convincing evidence for the following:

- a. the Council shall deny, revoke or accept voluntary surrender of peace officer certification for conviction of a felony following a plea or finding of guilty to a felony charge,
- b. the Council shall deny, revoke or accept voluntary surrender of peace officer certification for conviction of a misdemeanor involving moral turpitude; provided, if the conviction is a single isolated incident that occurred more than five (5) years ago and the Council is satisfied that the person has been sufficiently rehabilitated, the Council may certify such person providing that all other statutory requirements have been met,
- c. falsification or a willful misrepresentation of information in an employment application, or records of evidence, or in testimony under oath, or
- d. revocation or voluntary surrender of police or peace officer certification in another state.

2. Disciplinary proceedings shall be commenced by filing with the Council a complaint, on a form approved by the Council, verified by the complainant.

3. Upon the filing of the verified complaint, the Council's Executive Director shall conduct a preliminary investigation to determine whether:

- a. there is reason to believe the person has violated any provision of this subsection, or
- b. there is reason to believe the person has entered a plea of guilty or nolo contendere to a felony, a crime involving moral turpitude or a domestic violence offense and is currently participating in a deferred sentence agreement.

4. If the Executive Director does not find there is reason to believe the person has violated any of the provisions of this subsection, or the Executive Director is satisfied the person is sufficiently rehabilitated as provided in subparagraph b of paragraph 1 of this subsection, the person shall remain certified. If the Executive Director finds that there is reason to believe the person has violated the provisions of this subsection, the matter shall be referred for disciplinary proceedings. The disciplinary proceedings shall be in accordance with Articles I and II of the Administrative Procedures Act.

5. The Council shall revoke the certification of any person upon determining that such person has been convicted of a felony or crime involving moral turpitude; provided, that if the conviction has been reversed, vacated or otherwise invalidated by an appellate court, such conviction shall not be the basis for revocation of certification; provided further, that any person who has been trained and certified by the Council on Law Enforcement Education and Training and is actively employed as a full-time peace officer as of November 1, 1985, shall not be subject to the provisions of this subsection for convictions occurring prior to November 1, 1985. The sole issue to be determined at the hearing shall be whether the person has been convicted of a felony or crime involving moral turpitude.

6. The Council shall suspend or revoke the certification of any person upon determining that such person has entered a plea of guilty or nolo contendere to a felony, a crime involving moral turpitude or a misdemeanor domestic violence offense and received a deferred sentence; provided, that any person who has been trained and certified by the Council and is actively employed as a full-time peace officer shall not be subject to the provisions of this subsection for convictions occurring prior to November 1, 1985.

7. For all other violations of this subsection, the hearing examiner shall take into consideration the severity of the violation, and any mitigating circumstances offered by the person subject to disciplinary action, and any other evidence relevant to the person's character to determine the appropriate disciplinary action.

8. a. A police or peace officer may voluntarily surrender and relinquish his peace officer certification to CLEET. Pursuant to such surrender or relinquishment, the person surrendering the certification shall be prohibited from applying to CLEET for reinstatement within five (5) years of the date of the surrender or relinquishment.

b. No person who has had a police or peace officer certification from another state revoked or voluntarily surrendered shall be considered for certification by CLEET within five (5) years of the effective date of any such revocation or voluntary surrender of certification.

c. Any person seeking reinstatement of police or peace officer certification which has been suspended, revoked, or voluntarily surrendered, may apply for reinstatement pursuant to promulgated CLEET rules governing reinstatement.

9. A duty is hereby imposed upon the district attorney who, on behalf of the State of Oklahoma, prosecutes a person holding police or peace officer certification for a felony or crime involving moral turpitude in which a plea of guilty, nolo contendere, or other finding of guilt is entered by, against or on behalf of a certified police or peace officer to report such plea, agreement, or other finding of guilt to the Council on Law Enforcement Education and

Training within ten (10) days of such plea agreement or the finding of guilt.

10. Any person or agency required or authorized to submit information pursuant to this section to the Council shall be immune from liability arising from the submission of the information as long as the information was submitted in good faith and without malice.

K. 1. Every canine team in the state trained to detect controlled dangerous substances shall be certified, by test, in the detection of such controlled dangerous substances and shall be recertified annually so long as the canine is used for such detection purposes. The certification test and annual recertification test provisions of this subsection shall not be applicable to canines that are owned by a law enforcement agency and that are certified and annually recertified in the detection of controlled dangerous substances by the United States Customs Service.

2. The fee for the certification test shall be Two Hundred Dollars (\$200.00) and the annual recertification test fee shall be One Hundred Dollars (\$100.00) per canine team. A retest fee of Fifty Dollars (\$50.00) will be charged if the team fails the test. No such fee shall be charged to any local, state or federal government agency. The fees provided for in this paragraph shall be deposited to the credit of the C.L.E.E.T. Fund created pursuant to Section 1313.2 of Title 20 of the Oklahoma Statutes.

L. All tribal police officers of any Indian tribe or nation which has entered into a cross-deputization agreement with the State of Oklahoma or any political subdivision of the State of Oklahoma pursuant to the provisions of Section 1221 of Title 74 of the Oklahoma Statutes shall be eligible to enroll in and receive the training provided for in this section under the same terms and conditions that such training is made available to members of the

law enforcement agencies of the State of Oklahoma and its political subdivisions, except that a fee of Three Dollars and sixteen cents (\$3.16) per hour of training shall be charged for all training provided pursuant to this subsection. Such fees shall be deposited to the credit of the C.L.E.E.T. Fund created pursuant to Section 1313.2 of Title 20 of the Oklahoma Statutes.

M. If an employing law enforcement agency in this state has paid the salary of a person while that person is completing in this state a basic police course approved by the Council and if within one (1) year after certification that person resigns and is hired by another law enforcement agency in this state, the second agency or the person receiving the training shall reimburse the original employing agency for the salary paid to the person while completing the basic police course by the original employing agency.

SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10.6 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Effective July 1, 2002, there is hereby established an Oklahoma Office of Homeland Security. The Executive Director of the Oklahoma Office of Homeland Security shall be appointed by the Governor, with advice and consent of the Senate.

B. The Oklahoma Office of Homeland Security shall develop and coordinate the implementation of a comprehensive statewide strategy to secure the State of Oklahoma from the results of acts of terrorism as that term is defined in Section 9 of this act, from a public health emergency as that term is defined in the Catastrophic Emergency Health Powers Act, and from cyberterrorism, and perform any other duties assigned to it by the Governor.

C. The Office of Homeland Security shall have an oversight committee which shall consist of five (5) members as follows:

1. Two members of the House of Representatives, one of whom shall be a Republican and one of whom shall be a Democrat, to be appointed by the Speaker of the House;

2. Two members of the Senate, one of whom shall be a Republican and one of whom shall be a Democrat, to be appointed by the President Pro Tempore of the Senate; and

3. One member, to be appointed by the Governor.

D. The Oversight Committee shall monitor and review all activities of the Oklahoma Office of Homeland Security.

E. It shall be the duty of all departments, officers, agencies and employees of the state to cooperate with the Oklahoma Office of Homeland Security in carrying out the functions of that office. Failure to cooperate may result in removal from office.

SECTION 29. AMENDATORY 74 O.S. 2001, Section 150.2, is amended to read as follows:

Section 150.2 The Oklahoma State Bureau of Investigation shall have the power and duty to:

1. Maintain scientific laboratories to assist all law enforcement agencies in the discovery and detection of criminal activity;

2. Maintain fingerprint and other identification files including criminal history records, juvenile identification files, and DNA profiles;

3. Establish, coordinate and maintain the automated fingerprinting identification system (AFIS) and the deoxyribonucleic acid (DNA) laboratory;

4. Operate teletype, mobile and fixed radio or other communications systems;

5. Conduct schools and training programs for the agents, peace officers, and technicians of this state charged with the enforcement of law and order and the investigation and detection of crime;

6. Assist the Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Chief Medical Examiner, and all law enforcement officers and district attorneys when such assistance is requested, in accordance with the policy determined by the Oklahoma State Bureau of Investigation Commission established in Section 150.3 of this title;

7. Investigate and detect criminal activity when directed to do so by the Governor;

8. Investigate, detect, institute and maintain actions involving vehicle theft pursuant to Section 150.7 of this title or oil, gas or oil field equipment theft pursuant to Sections 152.2 through 152.9 of this title;

9. Investigate any criminal threat made to the physical safety of elected or appointed officials of this state or any political subdivision of the state and forward the results of that investigation to the Department of Public Safety, and provide security to foreign elected or appointed officials while they are in this state on official business; ~~and~~

10. Investigate and detect violations of the Oklahoma Computer Crimes Act; and

11. Investigate and detect activities that are violations of the Oklahoma Antiterrorism Act or of the criminal laws of the United States or of any state.

SECTION 30. AMENDATORY 74 O.S. 2001, Section 150.21a, is amended to read as follows:

Section 150.21a A. The Director of the Oklahoma State Bureau of Investigation may establish a crimes information unit within the Bureau.

B. With authorization from the Director of the Bureau, the crimes information unit or any employee of the Bureau may:

1. Investigate organized crime, criminal conspiracies, an act of terrorism, as that term is defined in Section 9 of this act, and threats of violent crime;

2. Collect information concerning the activity and identity of individuals reasonably believed to be engaged in organized crime, criminal conspiracies, an act of terrorism, as that term is defined in Section 9 of this act, or threatening violent crime;

3. Analyze collected information and disseminate such information to other law enforcement agencies for the purposes of criminal investigation and crime prevention;

4. Coordinate the effort of this state with local, state and federal agencies to protect its citizens against organized crime, criminal conspiracies, an act of terrorism, as that term is defined in Section 9 of this act, and threats of violent crime by creating a clearinghouse of crime-related information for use by local, state and federal law enforcement agencies; and

5. Provide training to peace officers of this state concerning the legal collection, preservation and dissemination of crime-related information.

C. Release of information compiled pursuant to this section shall be prohibited except for release of information to law enforcement officers and prosecutorial authorities for the purpose of criminal investigation, criminal prosecution, and crime prevention. Unauthorized release or unauthorized use of this information shall be a misdemeanor and shall be punishable by incarceration in the county jail not exceeding one (1) year or a fine not exceeding Fifty Thousand Dollars (\$50,000.00), or by both such fine and imprisonment. As used in this section, "unauthorized release" or "unauthorized use" shall include, but not be limited to, giving the information to any person who is not a law enforcement officer unless necessitated by an ongoing criminal investigation, or release of information to a law enforcement officer who is not

engaged in a criminal investigation requiring the information or who is not authorized by his or her agency to receive such information, or release of information in violation of any rules promulgated by the Bureau. Information collected and compiled under the authority of this section shall be privileged and not discoverable nor subject to subpoena or order for production issued by any court, other than production in a district court criminal proceeding for the prosecution of crimes which are the subject of the information sought. The Director of OSBI shall make a quarterly report to the OSBI Commission of all information collected and compiled under the authority of this section.

SECTION 31. This act shall become effective July 1, 2002.

SECTION 32. 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.

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