

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 1458

By: Smith of the Senate

and

Benson of the House

COMMITTEE SUBSTITUTE

An Act relating to courts; amending 20 O.S. 2001, Sections 1005, 1005.1, 1007, 1010, 1304 and 1307, which relate to judicial records, allowable claims and reports of expenses; removing certain record destruction requirements; adding exception to certain recording requirements; providing for destruction of certain records; updating language; making language gender neutral; modifying certain time periods; requiring certain court reporters to remove specified materials under certain circumstances; authorizing court clerk to destroy certain materials; providing for payment of certain costs; modifying expenses allowed to be claimed against the court fund; modifying reporting requirements; amending 38 O.S. 2001, Sections 18, 19, 20, 21 and 22, which relate to jurors; removing certain responsibilities of sheriff and court clerk; conforming language; modifying certain time period; modifying information the Commissioner of Public Safety is to provide to the Administrative Director of Courts; modifying procedures for use of certain information; making language gender neutral; modifying procedures for requesting additional jurors; repealing 38 O.S. 2001, Sections 24, 25, 26 and 27, which relate to jurors and procedure for selection; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 20 O.S. 2001, Section 1005, is amended to read as follows:

Section 1005. A. Unless there is an objection by the presiding administrative judge or the chief judge of the district court, the court clerk is authorized to dispose of the judicial records enumerated in this subsection by first offering all or part of the records to the Archives and Records Division of the Oklahoma

Department of Libraries for preservation as historical research materials, and by destroying all those which are not accepted by the Division. Nothing shall prohibit the presiding administrative judge or the chief judge of the district court from entering an order for the destruction of records prior to the time limits enumerated in this subsection for good cause shown. The judicial records subject to disposal or destruction shall be:

1. Domestic relations cases. This shall include, but not be limited to, cases filed concerning divorce, separate maintenance, annulment, reciprocal actions for enforcement of support, child custody, domestic abuse, foreign judgments in domestic relations cases, income assignments relating to an order of support, paternity, appeal on administrative order relating to support or paternity, habeas corpus relating to children, and other domestic-related filings:

- a. domestic relations cases that have been dismissed and no pleading has been filed or any action taken in the case for more than one (1) year, and
- b. all domestic relations cases after a twenty-year period has elapsed since any pleading has been filed or any action taken in the case;

2. Probate cases. This shall include, but not be limited to, cases filed concerning the probating of estates, guardianships, conservatorships, protective services to the elderly, powers of attorney, and trusts:

- a. probate cases that have been dismissed and no pleading has been filed or any action taken in the case for more than one (1) year, and
- b. all probate cases after a twenty-year period has elapsed since any pleading has been filed or any action taken in the case;

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

4. Civil (CJ and CS) records of unadjudicated cases and adjudicated cases:

- a. civil (CJ and CS) cases that have been dismissed and no pleading has been filed or any action taken in the case for more than one (1) year, and
- b. all adjudicated civil (CJ and CS) cases after a ten-year period has elapsed since any pleading has been filed or any action taken in the case;

5. Felony criminal records of unadjudicated cases and adjudicated cases:

- a. felony criminal cases that have been dismissed and no pleading or any action taken in the case for more than one (1) year,
- b. felony criminal records of adjudicated cases after a ten-year period has elapsed since any pleading has been filed or any action taken in the case, and
- c. felony criminal records of adjudicated cases, where the sentence imposed was death, life without parole, or life, after a fifty-year period has elapsed since any pleading has been filed or any action taken in the case;

6. Misdemeanor records of unadjudicated cases and adjudicated cases:

- a. misdemeanor cases that have been dismissed and no pleading or any action taken in the case for more than one (1) year,
- b. misdemeanor records of adjudicated cases after a five-year period has elapsed since any pleading has been filed or any action taken in the case; and

7. Juvenile cases. This shall include, but not be limited to, cases filed concerning delinquents, children in need of supervision, deprived children, children in need of treatment, children in need of shelter, and other related juvenile filings:

- a. juvenile cases that have been dismissed and no pleading has been filed or any action taken in the case for more than one (1) year, and
- b. all juvenile cases after a twenty-year period has elapsed since any pleading has been filed or any action taken in the case.

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

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

which records shall be destroyed after a ten-year period has elapsed since any pleading has been filed or any action taken in the case.

~~D. Small claims cases and justice of the peace court records.~~

~~The court clerk of each district court shall destroy the judicial records of justice of the peace courts including docket books on which they are entered; small claims cases including the docket books and sheets on which they are entered after a five-year period has elapsed since any pleading has been filed or any action taken in the case.~~

SECTION 2. AMENDATORY 20 O.S. 2001, Section 1005.1, is amended to read as follows:

Section 1005.1 A. All paper records which have been recorded on microfilm, microfiche, compact disc, or any other recognized technological means may be destroyed after the respective case has been adjudicated. With the exception of felony conviction records, probate, adoption, quiet title, ejectment, partition, marriage and divorce records, and Indian deed approval records, all court records which have not been recorded on microfilm, microfiche, compact disc, or any other recognized technological means and in which no activity has occurred for twenty-two (22) years, may be destroyed or may be given as historical research materials to an appropriate organization as determined by the court clerk of the district court.

B. Small claims cases and justice of the peace court records shall not be subject to microfilm or other permanent recording requirements. The court clerk of each district court shall destroy the judicial records of justice of the peace courts including docket books on which they are entered, and small claims cases including the docket books and sheets on which they are entered after a five-year period has elapsed since any pleading has been filed or any action taken in the case.

SECTION 3. AMENDATORY 20 O.S. 2001, Section 1007, is amended to read as follows:

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

1. One (1) year. All marriage health certificates.

2. Two (2) years. All instruments relating to beer, bingo, process servers, foreign process servers, closing out sale, and pool hall licenses including the applications, affidavits of residence, orders for hearing, notices of hearing, affidavits of posting and mailing and duplicate beer license.

3. ~~Five (5)~~ Three (3) years. All duplicate receipts, duplicate vouchers, mechanics' and materialmen's lien records, duplicate deposit tickets, jury lists, juror and witness certificates, court clerk's liens, court fund claims, jury and bailiff records, monthly reports, statutory bonds, cost bonds, paid claims, procedural bonds, court assignments, and court calendars including disposition docket books containing entries which have been posted to the case file docket sheet or computer printed docket sheet, appearance bonds and search warrants in instances where no charges are filed, purchase orders, and court minutes.

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

SECTION 4. AMENDATORY 20 O.S. 2001, Section 1010, is amended to read as follows:

Section 1010. A court reporter's notes may be destroyed by a person lawfully in possession of the notes after a ~~five-year~~ one-year period has elapsed following the death of the court reporter.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1011 of Title 20, unless there is created a duplication in numbering, reads as follows:

Each court reporter who has been employed by a district court of this state shall remove all exhibits, notes and other materials from the custody of the court clerk within thirty (30) days after termination of employment with that district court by the court reporter. In the event that the court reporter fails to remove the property in a timely manner, the court clerk shall be authorized to destroy the materials after six (6) months have elapsed since termination of the court reporter's employment, and the court reporter shall be responsible for any expenses for costs of reproduction.

SECTION 6. AMENDATORY 20 O.S. 2001, Section 1304, is amended to read as follows:

Section 1304. A. Claims against the court fund shall include only expenses lawfully incurred for the operation of the court in each county. Payment of the expenses may be made after the claim is approved by the district judge who is a member of the governing board of the court fund and either the local court clerk or the local associate district judge who is a member of the governing board. No expenditures falling into any category listed in paragraphs 1, 5, 6, 7 and 13 of subsection B of this section, may be made without prior written approval of the Chief Justice of the Supreme Court. The Supreme Court may provide by rule the manner in which expenditures in the restricted categories shall be submitted for approval. When allowing the expenditures in paragraphs 6 and 7 of subsection B of this section, the Chief Justice shall direct that resort first be had to the surplus funds in the court fund in the county involved.

B. The term "expenses" shall include the following items and none others:

1. Compensation of bailiffs and ~~part-time help~~ employees of the court fund;

2. Juror fees and mileage, as well as overnight accommodation and food expense for jurors kept together as set out in Section 81 et seq. of Title 28 of the Oklahoma Statutes;

3. Witness fees and mileage for witnesses subpoenaed by the defense as set out in Section 81 et seq. of Title 28 of the Oklahoma Statutes, except that expert witnesses for county indigent defenders shall be paid a reasonable fee for their services;

4. Office supplies, books for records, postage, and printing;

5. Furniture, fixtures, and equipment;

6. Renovating, remodeling, and maintenance of courtrooms, judge's chambers, clerk's offices, and other areas primarily used for judicial functions;

7. Rent for courtroom facilities outside the courthouse;

8. Judicial robes;

9. ~~Attorney's~~ Attorney fees for indigents in the trial court and on appeal;

10. Compensation or reimbursement for services provided in connection with an adult guardianship proceeding as provided by Section 4-403 of Title 30 of the Oklahoma Statutes. Compensation from the court fund for attorneys appointed pursuant to the Oklahoma Guardianship Act, ~~Section 1-102 et seq. of Title 30 of the Oklahoma Statutes,~~ shall be substantially the same as for attorneys appointed in juvenile proceedings pursuant to Title 10 of the Oklahoma Statutes. The compensation, if any, for guardians ad litem appointed pursuant to the Oklahoma Guardianship Act shall not exceed One Hundred Dollars (\$100.00);

11. Transcripts ordered by the court;

12. Necessary telephone expenses, gas, water, and electrical utilities for the part of the county courthouse occupied by the court and other areas used for court functions;

13. Security expenses for the part of the county courthouse occupied by the court and other areas used for court functions;

14. The cost of publication notice in juvenile proceedings as provided in Section 7003-3.5 of Title 10 of the Oklahoma Statutes and in termination of parental rights proceedings brought by the state as provided in Section 7006-1.2 of Title 10 of the Oklahoma Statutes;

15. Interpreter fees;

16. Necessary travel expenses of the office of county indigent defender approved by the court fund governing board;

17. Rent for county indigent defender's office outside of the county courthouse;

18. Computer equipment for county indigent defender's office;

19. Reasonable compensation for expert, investigative, or other services authorized by the court for indigent defendants not represented by a county indigent defender or the Oklahoma Indigent Defense System, if requested;

20. Necessary training for the judges and court personnel on the court integrated computer system; and

21. Any other expenses now or hereafter expressly authorized by statute.

C. Nothing in Section 1301 et seq. of this title shall prevent the construction of additional courtrooms within existing courthouse facilities, from funds other than the court fund.

D. Items of equipment, furniture, fixtures, printing, or supplies that are available in the quantities desired from a contract vendor's list for order or purchase by the court fund through the facilities of the Central Purchasing Division of the Department of Central Services may not be purchased by any court fund at prices higher than those approved by the Director of Central Purchasing.

SECTION 7. AMENDATORY 20 O.S. 2001, Section 1307, is amended to read as follows:

Section 1307. A. Within thirty (30) days after the end of each ~~month~~ quarter of every fiscal year, the court clerk of each county shall report to the Administrative Director of the Courts, in the manner prescribed by law for the reporting of information by agencies to the Office of State Finance pursuant to Section 41.1 et seq. of Title 62 of the Oklahoma Statutes, the:

1. Gross receipts to the court fund during the preceding ~~month~~ quarter;

2. Total amount of expenses paid during the preceding ~~month~~ quarter, including, but not limited to, bond and interest expense and payments to the county general fund; and

3. Total amount of money transferred or to be transferred to the State Judicial Fund for the ~~preceding month~~ entire past fiscal year as set forth in Section 1308 of this title.

B. The Administrative Director of the Courts shall subsequently report the information required by subparagraphs 1 and 2 of subsection A of this section within ten (10) days after receipt of the information to the Office of State Finance in a manner consistent with the policies and procedures of the Office of State Finance for reporting by state agencies pursuant to the provisions of Section 41.1 et seq. of Title 62 of the Oklahoma Statutes.

C. The information required by this section for reporting by court clerks pursuant to subsection A of this section and for reporting by the Administrative Director of the Courts pursuant to subsection B of this section shall be in a form that separates fines, fees, forfeitures and other sources of revenue. The information shall also indicate the amount of receipts used for local court expenses and the amount deposited into the State Judicial Fund.

D. A ceiling on the amount of local court funds to be allocated by the Chief Justice of the Supreme Court for the local court

budgets shall be established in the annual appropriation to the courts.

SECTION 8. AMENDATORY 38 O.S. 2001, Section 18, is amended to read as follows:

Section 18. ~~A. Between the tenth and twenty-fifth day of November of each year, the sheriff or one of the sheriff's deputies, and the court clerk or one of the court clerk's deputies, shall meet at the courthouse of the county they serve in the office of the court clerk and select from the list of qualified jurors of the county, as prescribed by this chapter, all qualified jurors for service in the district court in the county for the ensuing year in the manner hereinafter provided.~~

~~B.~~ For the purpose of ascertaining names of all persons qualified for jury service:

1. The Commissioner of Public Safety shall cause to be provided to the Administrative Director of the Courts, not later than the first day of ~~October, 1987,~~ and the first day of October of each year ~~thereafter,~~ a list by county of persons residing whose mailing addresses are in the county, who are eighteen (18) years of age or older, and who are holders of a current ~~driver's~~ driver license or a current identification license issued by the Department of Public Safety ~~pursuant to subsection E of Section 6-105 of Title 47 of the Oklahoma Statutes.~~ The list shall contain the name, date of birth, and ~~place of residence~~ mailing address of each person listed. The list shall be used exclusively for jury selection purposes. The Administrative Director of the Courts and the court clerk shall not copy or permit any person to copy the list or any portion thereof for purposes other than jury selection;

2. All names and addresses of the persons so listed under the provisions of paragraph 1 of this ~~subsection~~ section shall be used thereafter in the selection of juries; provided, however, no jury panel shall be quashed because of a duplication of names;

3. The list will be furnished by the Administrative Director of the Courts to the court clerks according to the period of time ~~specified in subsection A of this section~~ prescribed by the Administrative Director of the Courts;

4. The provisions of this section shall not be construed to preclude persons otherwise qualified to serve as jurors from volunteering for jury service in a manner prescribed by the Administrative Director of the Courts; and

5. The Administrative Director of the Courts may accept changes or corrections in a mailing address or county of residence of a qualified juror from such qualified juror. Changes may be accepted in any manner prescribed by the Administrative Director of the Courts.

SECTION 9. AMENDATORY 38 O.S. 2001, Section 19, is amended to read as follows:

Section 19. ~~Said officer~~ The Administrative Director of the Courts shall ~~write or~~ cause to be ~~written~~ generated, from the names of all persons who are known to be qualified jurors under the law ~~on separate cards of uniform size and color, writing also on said cards, whenever possible, the post office address of each juror so selected, the expense thereof to be paid from the court fund of each county, said names and addresses of such qualified voters to be typed upon the cards as herein described under the supervision of the court clerk. The cards containing said names shall be deposited in a circular hollow wheel, to be provided for such purpose by the board of county commissioners of each county after they have examined the contents thereof and removed therefrom and destroyed any cards found therein. Said wheel shall be in the form of a drum made of iron or steel and shall be so constructed as to freely revolve on its axle and big enough to freely mix all the cards placed therein, the size thereof in each to be determined by the number of names placed therein and shall be kept locked at all~~

~~times, except when in use as hereinafter provided, by the use of two separate locks, so arranged that the key to one will not open the other lock; and said wheel and the clasps thereto attached into which the locks shall be fitted, shall be so arranged that said wheel cannot be opened unless both of said locks are unlocked at the time the wheel is opened. The keys to such locks shall be kept, one by the sheriff and the other by the court clerk. The sheriff and the court clerk shall not open such wheel, nor permit the same to be opened by any person, except at the time and in the manner and by the persons herein specified; but said sheriff and court clerk shall keep such wheel, when not in use, in a safe and secure place where the same cannot be tampered with, the general panel of jurors as required under Section 20 of this title.~~

SECTION 10. AMENDATORY 38 O.S. 2001, Section 20, is amended to read as follows:

Section 20. In each county, the judges of the courts of record shall, more than ten (10) days prior to each term of court, determine approximately the number of jurors that are reasonably necessary for jury service in all the ~~said~~ courts of record of ~~such~~ the county for each ~~two-week~~ jury period during the time ~~said~~ the courts may hold during the term and shall thereupon order the ~~drawing of such~~ number of jurors from the ~~wheel~~ Administrative Director of the Courts for each ~~of said two-week~~ jury period, said jury to be known as the general panel of jurors for service in all ~~such~~ the courts of such county for the respective weeks for which they are designated to serve. A majority of ~~said~~ the judges are authorized to act in carrying out the provisions of this law; provided, however, there is only one judge in the county or where the district judge so designates in writing the judge of the court of record using the jury is authorized to act in carrying out the provisions of this law or he or she may increase or diminish the number of jurors to be selected for any ~~two-week~~ jury period, and

shall order said jurors drawn for as many weeks in advance of service as they or he or she deem proper. The general panel shall report for duty to the presiding district court judge or if none to the judge of the court of record using the jury, and said judge, for such time as he so acts shall organize said juries and have immediate supervision and control of them.

SECTION 11. AMENDATORY 38 O.S. 2001, Section 21, is amended to read as follows:

~~Section 21. At such times as the chief judge of the district court or, during his absence or disability, some other judge assigned to the district court in the county, may order the court clerk or one of his deputies and the sheriff or one of his deputies in open court and under the directions of the chief judge of the district court, or during his absence or disability, some other judge assigned to the district court in the county, shall draw from the wheel containing the names of jurors, after the same has been well turned so that the cards therein are thoroughly mixed, one by one until the number of jurors for grand or petit jury service as directed by said judge are procured and shall record such names as they are drawn upon as many separate sheets of paper as there are weeks for such term or terms for which jurors will be required. The officers attending such drawing shall not divulge the name of any person that may be drawn as a juror to any person. If a grand jury is ordered, the first names drawn to the number stated in the judge's order, not to exceed one hundred, shall be summoned as grand jurors, and the grand jury shall be impaneled from said persons. The judge of the district court shall order the court clerk or one of his or her deputies to order the stated number of jurors from the~~
Administrative Director of the Courts. In addition to the twelve (12) grand jurors to be impaneled, three additional persons shall be selected as alternate grand jurors. The alternate grand jurors shall attend all functions of the grand jury during its term and

shall be subject to all laws governing grand jurors. Provided that, no alternate juror shall participate in any deliberations of the grand jury until appointed to fill a vacancy. If the judge so directs, the persons summoned for the grand jury panel who are not used thereon may be transferred to the petit jury panel. Additional and other drawing of as many names as the court may order may be had at any such time as the court or judge may order for the completion of a grand or petit jury panel, or for the impaneling of a new grand or petit jury if, in the judgment of the court, the same shall be necessary, or if, for any cause, the court, in its discretion, shall deem other jurors necessary. The court may excuse or discharge any person drawn and summoned as a grand or petit juror, whenever, in its discretion, such action shall be deemed expedient. No person may be required to render service as a petit juror for more than a total of eighteen (18) days in any one calendar year unless, when this time limit is reached, he or she is sitting upon a panel engaged in the consideration of a case, in which event he may be excused when such case is terminated; provided, that if the judge is of the opinion that the jury business of a term fixed by the court may be concluded within six (6) days, he may require a petit jury, or a petit juror, to remain until the termination of said jury service. Persons summoned for petit jury service need not be required to serve during previously fixed days or weeks or a term fixed by the court for jury trials, but they may be recalled from time to time as the trial needs of the district court may require, without regard to the term fixed by the court for jury trials for which they were originally summoned.

SECTION 12. AMENDATORY 38 O.S. 2001, Section 22, is amended to read as follows:

Section 22. Said jurors, when impaneled, shall constitute a general panel for the two-week period, for service as jurors in all district, superior, common pleas and county court in said county,

and shall be used interchangeably in all of the said courts. In the event of a deficiency of said jurors at any given time to meet the requirement of all of said courts, the presiding judge having control of said general panel for the two-week period shall ~~order~~ direct the district court clerk to request from the Administrative Director of the Courts such additional jurors ~~to be drawn from the wheel~~ as may be sufficient to meet such emergency, but such jurors shall act only as special jurors and shall be discharged as soon as their services are no further needed. ~~Resort to the wheel shall be had in all cases to fill out the general panel, except where waived by the parties or their attorneys; provided that by written agreement entered into by all parties to any cause or suit, or the attorney of record in such suit or cause filed therein, the court may direct that an open venire be issued to the sheriff or other suitable person, for such number of jurors as may be deemed necessary, to be selected from the body of the county, or from such portion of the county as the court may order without resorting to the jury wheel; provided, that no person shall serve as talesman oftener than once a year.~~

SECTION 13. REPEALER 38 O.S. 2001, Sections 24, 25, 26 and 27, are hereby repealed.

SECTION 14. This act shall become effective November 1, 2002.

48-2-9112 SD 6/12/15