

ENROLLED SENATE
BILL NO. 776

By: Smith of the Senate

and

Braddock, Smithson and
Nance of the House

An Act relating to courts; amending 20 O.S. 2001, Sections 125, 1005, as amended by Section 1, Chapter 390, O.S.L. 2002, and 1007, as amended by Section 3, Chapter 390, O.S.L. 2002 (20 O.S. Supp. 2002, Sections 1005 and 1007), which relate to bailiffs and destruction of records; allowing certain officers to contract for specified purpose; authorizing destruction of certain records; and providing an effective date.

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

SECTION 1. AMENDATORY 20 O.S. 2001, Section 125, is amended to read as follows:

Section 125. A. In all counties of the state there is created the office of secretary-bailiff for district judges and associate district judges, with each such secretary-bailiff to be appointed by order of the district judge or associate district judge to serve at the will of the appointing judge as an unclassified employee of the state exempt from the provisions of the Oklahoma Merit System of Personnel Administration. The Chief Justice shall approve by administrative directive the number and assignments of secretary-bailiffs in all counties of the state. Each secretary-bailiff shall be paid a salary pursuant to the salary schedule established by the annual appropriation for the district courts and in accordance with the job description for the position to which appointed. In every county of the state each district judge and each associate district judge may by order appoint additional necessary court personnel subject to the approval of the Chief Justice. A part-time bailiff shall be paid out of the court fund of the county where appointed at the rate set by administrative directive for each hour that such person actually attends the court and performs services, or a pro rata fraction thereof for less than an hour's service. Notwithstanding any other provision of law, each district judge and associate district judge may contract with the sheriff of the county to allow a deputy sheriff to provide bailiff service to the court.

B. With the approval of the presiding judge, a special judge may appoint a secretary-bailiff or other personnel in accordance with the administrative order of the Chief Justice.

C. No judge shall engage more than one full-time secretary-bailiff at any given time except only during the progress of a jury trial, when a part-time bailiff may be engaged subject to the approval of the Chief Justice. In the latter event, no more than one additional bailiff shall be engaged to take charge of the jury. The costs of meals and lodging of bailiffs ordered to keep a jury together during the process of a trial or after the jury retires for deliberation shall be lawfully paid from the court fund.

D. A district judge who sits regularly in more than one county may employ only one full-time secretary-bailiff in such judge's judicial district, and in any other county of the district such judge may engage a bailiff only on a part-time basis when such judge sits in the county as a judge pursuant to the procedures set forth by the Chief Justice in the administrative directive. The cost of the operation of the office of a district judge of a multi-county judicial district, including the purchase of equipment and supplies, may be apportioned among the counties of that judicial district, or appropriate division of that district, based upon the percentage of revenue collected by the courts of the district.

E. The Administrative Director of the Courts shall develop and promulgate job descriptions, salary schedules and time-keeping forms for part-time bailiff personnel. The Chief Justice of the Oklahoma Supreme Court, through the Office of the Administrative Director of the Courts, shall promulgate rules for the compensation for overtime for all secretary-bailiff and part-time bailiff personnel employed.

F. Persons employed by a county that does not meet the requirements of Section 951 of Title 19 of the Oklahoma Statutes, and who serve as full-time secretary-bailiffs or full-time bailiffs shall be eligible to participate in the state retirement system and state insurance programs and any other benefits as are provided to state employees in the unclassified service. All part-time bailiff personnel shall be compensated by the local court fund.

G. On October 1, 1989, the position of full-time bailiff shall be redesignated as the position of secretary-bailiff in accordance with the job descriptions, salary schedules, and procedures approved by the Chief Justice. Additional secretary-bailiff positions shall be created as funding and employee positions are available. Counties shall be allowed to provide additional support personnel to the judges sitting in such counties to the extent that funding is available.

SECTION 2. AMENDATORY 20 O.S. 2001, Section 1005, as amended by Section 1, Chapter 390, O.S.L. 2002 (20 O.S. Supp. 2002, 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. Records of criminal property cases brought pursuant to Sections 1321 et seq. of Title 22 of the Oklahoma Statutes shall be subject to disposal or destruction after a two-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, as amended by Section 3, Chapter 390, O.S.L. 2002 (20 O.S. Supp. 2002, Section 1007), is amended to read as follows:

Section 1007. The court clerk in each county in Oklahoma is authorized to destroy or sell for salvage the documents mentioned in this section which have been on file or stored in 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. 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 and records pertaining to bondspersons' licenses.

SECTION 4. This act shall become effective November 1, 2003.

Passed the Senate the 26th day of February, 2003.

Presiding Officer of the Senate

Passed the House of Representatives the 23rd day of April, 2003.

Presiding Officer of the House
of Representatives