ENROLLED SENATE
BILL NO. 477

By: Crain of the Senate

and

Sullivan of the House

An Act relating to courts; amending 20 O.S. 2001, Section 1005, as last amended by Section 2, Chapter 153, O.S.L. 2003 (20 O.S. Supp. 2004, Section 1005), which relates to destruction of court records; authorizing use of certain computerized listings for record destruction; decreasing certain time period; removing distinction between certain cases; 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, as last amended by Section 2, Chapter 153, O.S.L. 2003 (20 O.S. Supp. 2004, 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. <u>In the record destruction process, any officer may rely upon computerized lists or other electronic data provided by the Administrative Office of the Courts or its OCIS/OSCN system. For purposes of determining the time periods in this chapter, the officer may disregard entries or actions taken in the subject cases, such as accounting, internal electronic data or other nonjudicial entries.</u> 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~~ one (1) year;

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~~ other 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~~ Section 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 2. This act shall become effective November 1, 2005.

Passed the Senate the 2nd day of March, 2005.

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Presiding Officer of the Senate

Passed the House of Representatives the 4th day of April, 2005.

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Presiding Officer of the House
of Representatives