

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB1965 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Paul Wesselhoft

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 1965

By: Russell and Gumm of the
Senate

and

Hilliard of the House

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10 PROPOSED COMMITTEE SUBSTITUTE

11 [criminal investigations - malicious intimidation or
12 harassment - Oklahoma State Bureau of Investigation
13 - confidentiality - limiting disclosure -
14 codification -
15 effective date]

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

19 SECTION 1. AMENDATORY 21 O.S. 2001, Section 850, is
20 amended to read as follows:

21 Section 850. A. No person shall maliciously and with the
22 specific intent to intimidate or harass another person because of
23 that person's race, color, religion, ancestry, national origin or
24 disability:

1 1. Assault or batter another person;

2 2. Damage, destroy, vandalize or deface any real or personal
3 property of another person; or

4 3. Threaten, by word or act, to do any act prohibited by
5 paragraph 1 or 2 of this subsection if there is reasonable cause to
6 believe that such act will occur.

7 B. No person shall maliciously and with specific intent to
8 incite or produce, and which is likely to incite or produce,
9 imminent violence, which violence would be directed against another
10 person because of that person's race, color, religion, ancestry,
11 national origin or disability, make or transmit, cause or allow to
12 be transmitted, any telephonic, computerized, or electronic message.

13 C. No person shall maliciously and with specific intent to
14 incite or produce, and which is likely to incite or produce,
15 imminent violence, which violence would be directed against another
16 person because of that person's race, color, religion, ancestry,
17 national origin or disability, broadcast, publish, or distribute,
18 cause or allow to be broadcast, published or distributed, any
19 message or material.

20 D. Any person convicted of violating any provision of
21 subsections A, B or C of this section shall be guilty of a
22 misdemeanor on a first offense and a felony punishable by not more
23 than ten (10) years incarceration in the custody of the Department
24 of Corrections for a second or subsequent offense. The fine for a

1 felony violation of this section shall not exceed Ten Thousand
2 Dollars (\$10,000.00). Furthermore, ~~said~~ the person shall be civilly
3 liable for any damages resulting from any violation of this section.

4 E. Upon conviction, any person guilty of a misdemeanor in
5 violation of this section shall be ~~punishable~~ punished by the
6 imposition of a fine not exceeding One Thousand Dollars (\$1,000.00),
7 or by imprisonment in the county jail for a period of not more than
8 one (1) year, or by both such fine and imprisonment.

9 F. The Oklahoma State Bureau of Investigation shall develop a
10 standard system for state and local law enforcement agencies to
11 report incidents of crime which are apparently directed against
12 members of racial, ethnic, religious groups or other groups
13 specified by this section. The Oklahoma State Bureau of
14 Investigation shall promulgate rules, regulations and procedures
15 necessary to develop, implement and maintain a standard system for
16 the collection and reporting of hate crime data. All state, county,
17 city and town law enforcement agencies shall submit a monthly report
18 to the Oklahoma State Bureau of Investigation on forms prescribed by
19 the Bureau. The report shall contain the number and nature of the
20 offenses committed within their respective jurisdictions, the
21 disposition of such matters and any other information the Bureau may
22 require, respecting information relating to the cause and prevention
23 of crime, recidivism, the rehabilitation of criminals and the proper
24 administration of criminal justice.

1 G. Any federal agency or law enforcement authority who desires
2 access to Oklahoma law enforcement records, reports, or
3 investigative findings related to a crime alleged or prosecuted
4 pursuant to this section, shall file a petition with the district
5 court of competent jurisdiction specifying the justification for the
6 release of the documents to the federal agency, if the state or
7 local authority maintaining the documents objects to the request.

8 H. No person, partnership, company or corporation that installs
9 telephonic, computerized, or electronic message equipment shall be
10 required to monitor the use of such equipment for possible
11 violations of this section, nor shall such person, partnership,
12 company or corporation be held criminally or civilly liable for the
13 use by another person of the equipment in violation of this section,
14 unless the person, partnership, company or corporation that
15 installed the equipment had prior actual knowledge that the
16 equipment was to be used in violation of this section.

17 SECTION 2. AMENDATORY 51 O.S. 2001, Section 24A.8, as
18 last amended by Section 1, Chapter 36, O.S.L. 2009 (51 O.S. Supp.
19 2009, Section 24A.8), is amended to read as follows:

20 Section 24A.8 A. Law enforcement agencies shall make available
21 for public inspection, if kept, the following records:

22 1. An arrestee description, including the name, date of birth,
23 address, race, sex, physical description, and occupation of the
24 arrestee;

1 2. Facts concerning the arrest, including the cause of arrest
2 and the name of the arresting officer;

3 3. A chronological list of all incidents, including initial
4 offense report information showing the offense, date, time, general
5 location, officer, and a brief summary of what occurred; and

6 4. Radio logs, including a chronological listing of the calls
7 dispatched~~7.~~

8 ~~5.~~ B. Law enforcement agencies shall make available for public
9 inspection, if kept, the following records:

10 1. Conviction information, including the name of any person
11 convicted of a criminal offense;

12 ~~6.~~ 2. Disposition of all warrants, including orders signed by a
13 judge of any court commanding a law enforcement officer to arrest a
14 particular person;

15 ~~7.~~ 3. A crime summary, including an agency summary of crimes
16 reported and public calls for service by classification or nature
17 and number; and

18 ~~8.~~ 4. Jail registers, including jail blotter data or jail
19 booking information recorded on persons at the time of incarceration
20 showing the name of each prisoner with the date and cause of
21 commitment, the authority committing the prisoner, whether committed
22 for a criminal offense, a description of the prisoner, and the date
23 or manner of discharge or escape of the prisoner.

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1 ~~B.~~ C. Except for the records listed in subsection A of this
2 section and those made open by other state or local laws, law
3 enforcement agencies may deny access to law enforcement records
4 except where a court finds that the public interest or the interest
5 of an individual outweighs the reason for denial. Any federal
6 agency or law enforcement authority who desires access to Oklahoma
7 law enforcement records, reports, or investigative findings related
8 to a crime alleged or prosecuted pursuant to Section 850 of Title 21
9 of the Oklahoma Statutes, shall file a petition with the district
10 court of competent jurisdiction specifying the justification for the
11 release of the documents to the federal agency, if the state or
12 local authority maintaining the documents objects to the request,
13 except for those records listed in subsections A and B of this
14 section.

15 ~~C.~~ D. Nothing contained in this section imposes any new
16 recordkeeping requirements. Law enforcement records shall be kept
17 for as long as is now or may hereafter be specified by law. Absent
18 a legal requirement for the keeping of a law enforcement record for
19 a specific time period, law enforcement agencies shall maintain
20 their records for so long as needed for administrative purposes.

21 ~~D.~~ E. Registration files maintained by the Department of
22 Corrections pursuant to the provisions of the Sex Offenders
23 Registration Act shall be made available for public inspection in a
24 manner to be determined by the Department.

1 ~~E.~~ F. The Council on Law Enforcement Education and Training
2 (C.L.E.E.T.) shall keep confidential all records it maintains
3 pursuant to Section 3311 of Title 70 of the Oklahoma Statutes and
4 deny release of records relating to any employed or certified full-
5 time officer, reserve officer, retired officer or other person;
6 teacher lesson plans, tests and other teaching materials; and
7 personal communications concerning individual students except under
8 the following circumstances:

- 9 1. To verify the current certification status of any peace
10 officer;
- 11 2. As may be required to perform the duties imposed by Section
12 3311 of Title 70 of the Oklahoma Statutes;
- 13 3. To provide to any peace officer copies of the records of
14 that peace officer upon submitting a written request;
- 15 4. To provide, upon written request, to any law enforcement
16 agency conducting an official investigation, copies of the records
17 of any peace officer who is the subject of such investigation;
- 18 5. To provide final orders of administrative proceedings where
19 an adverse action was taken against a peace officer; and
- 20 6. Pursuant to an order of the district court of the State of
21 Oklahoma.

22 ~~F.~~ G. The Department of Public Safety shall keep confidential:
23 1. All records it maintains pursuant to its authority under
24 Title 47 of the Oklahoma Statutes relating to the Oklahoma Highway

1 Patrol Division, the Communications Division, and other divisions of
2 the Department relating to:

3 a. training, lesson plans, teaching materials, tests, and
4 test results,

5 b. policies, procedures, and operations, any of which are
6 of a tactical nature, and

7 c. the following information from radio logs:

8 (1) telephone numbers,

9 (2) addresses other than the location of incidents to
10 which officers are dispatched, and

11 (3) personal information which is contrary to the
12 provisions of the Driver's Privacy Protection
13 Act, 18 United States Code, Sections 2721 through
14 2725; and

15 2. For the purpose of preventing identity theft and invasion of
16 law enforcement computer systems, except as provided in Title 47 of
17 the Oklahoma Statutes, all driving records.

18 SECTION 3. AMENDATORY 51 O.S. 2001, Section 24A.12, is
19 amended to read as follows:

20 Section 24A.12. Except as otherwise provided by state or local
21 law, the Attorney General of the State of Oklahoma and agency
22 attorneys authorized by law, the office of the district attorney of
23 any county of the state, and the office of the municipal attorney of
24 any municipality may keep its litigation files and investigatory

1 reports confidential, except that any federal agency who desires
2 access to Oklahoma law enforcement records, reports, or
3 investigative findings related to a crime alleged or prosecuted
4 pursuant to Section 850 of Title 21 of the Oklahoma Statutes, shall
5 file a petition with the district court of competent jurisdiction
6 specifying the justification for the release of the documents to the
7 federal agency, if the state or local authority maintaining the
8 documents objects to the request.

9 SECTION 4. AMENDATORY 74 O.S. 2001, Section 150.5, as
10 last amended by Section 162, Chapter 234, O.S.L. 2009 (74 O.S. Supp.
11 2009, Section 150.5), is amended to read as follows:

12 Section 150.5 A. 1. Oklahoma State Bureau of Investigation
13 investigations not covered under Section 150.2 of this title shall
14 be initiated at the request of the following persons:

- 15 a. the Governor,
- 16 b. the Attorney General,
- 17 c. the Council on Judicial Complaints upon a vote by a
18 majority of the Council,
- 19 d. the chair of any Legislative Investigating Committee
20 which has been granted subpoena powers by resolution,
21 upon authorization by a vote of the majority of the
22 Committee,

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1 e. the Director of the Department of Human Services, or
2 designee, as authorized by Section 7106 of Title 10 of
3 the Oklahoma Statutes, or

4 f. a district court judge as authorized by Section 7104.1
5 of Title 10 of the Oklahoma Statutes.

6 2. Requests for investigations shall be submitted in writing
7 and shall contain specific allegations of wrongdoing under the laws
8 of the State of Oklahoma.

9 B. The Governor may initiate special background investigations
10 with the written consent of the person who is the subject of the
11 investigation.

12 C. The chair of any Senate committee which is fulfilling the
13 statutory responsibility for approving nominations made by the
14 Governor may, upon a vote by a majority of the committee and with
15 the written consent of the person who is to be the subject of the
16 investigation, initiate a special background investigation of any
17 nominee for the Oklahoma Horse Racing Commission as established by
18 Section 201 of Title 3A of the Oklahoma Statutes or any nominee for
19 the Board of Trustees of the Oklahoma Lottery Commission as
20 established by Section 704 of Title 3A of the Oklahoma Statutes.
21 The Bureau shall submit a report to the committee within thirty (30)
22 days of the receipt of the request. Any consideration by the
23 committee of a report from the Bureau shall be for the exclusive use
24 of the committee and shall be considered only in executive session.

1 D. 1. All records relating to any investigation being
2 conducted by the Bureau, including any records of laboratory
3 services provided to law enforcement agencies pursuant to paragraph
4 1 of Section 150.2 of this title, shall be confidential and shall
5 not be open to the public or to the Commission except as provided in
6 Section 150.4 of this title; provided, however, officers and agents
7 of the Bureau may disclose, at the discretion of the Director, such
8 investigative information to:

- 9 a. officers and agents of federal, state, county, or
10 municipal law enforcement agencies and to district
11 attorneys, in the furtherance of criminal
12 investigations within their respective jurisdictions,
13 except that any federal agency who desires access to
14 Oklahoma law enforcement records, reports, or
15 investigative findings related to a crime alleged or
16 prosecuted pursuant to Section 850 of Title 21 of the
17 Oklahoma Statutes, shall file a petition with the
18 district court of competent jurisdiction specifying
19 the justification for the release of the documents to
20 the federal agency, if the state or local authority
21 maintaining the documents objects to the request,
- 22 b. employees of the Department of Human Services in the
23 furtherance of child abuse investigations, and
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1 c. appropriate accreditation bodies for the purposes of
2 the Bureau's obtaining or maintaining accreditation.

3 2. Any unauthorized disclosure of any information contained in
4 the confidential files of the Bureau shall be a misdemeanor. The
5 person or entity authorized to initiate investigations in this
6 section, and the Attorney General in the case of investigations
7 initiated by the Insurance Commissioner, shall receive a report of
8 the results of the requested investigation. The person or entity
9 requesting the investigation may give that information only to the
10 appropriate prosecutorial officer or agency having statutory
11 authority in the matter if that action appears proper from the
12 information contained in the report, and shall not reveal or give
13 such information to any other person or agency. Violation hereof
14 shall be deemed willful neglect of duty and shall be grounds for
15 removal from office.

16 E. It shall not be a violation of this section to reveal
17 otherwise confidential information to outside agencies or
18 individuals who are providing interpreter services, questioned
19 document analysis, and other laboratory services that are necessary
20 in the assistance of Bureau investigations. Individuals or agencies
21 receiving the confidential and investigative information or records
22 or results of laboratory services provided to the Bureau by those
23 agencies or individuals, shall be subject to the confidentiality
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1 provisions and requirements established in subsection D of this
2 section.

3 F. The State Treasurer shall initiate a complete background
4 investigation of the positions with the written consent of the
5 persons who are the subject of the investigation pursuant to
6 subsection I of Section 71.1 of Title 62 of the Oklahoma Statutes.
7 The Bureau shall advise the State Treasurer and the Cash Management
8 and Investment Oversight Commission in writing of the results of the
9 investigation.

10 SECTION 5. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 3011 of Title 12, unless there
12 is created a duplication in numbering, reads as follows:

13 Evidence requested for admission as substantive evidence of
14 assemblage in the exercise of free speech or display of religious
15 beliefs that is not connected to the direct conduct of planning,
16 conspiring, or committing an act of violence as prescribed by law is
17 not admissible.

18 SECTION 6. This act shall become effective November 1, 2010.

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20 52-2-10514 GRS 04/01/10

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