

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1835

By: Sykes

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6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22  
8 O.S. 2001, Section 2002, as amended by Section 23,  
9 Chapter 460, O.S.L. 2002 (22 O.S. Supp. 2009, Section  
10 2002), which relates to disclosure of evidence;  
11 establishing exception to disclosure of certain  
12 information; and providing an effective date.

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

14 SECTION 1. AMENDATORY 22 O.S. 2001, Section 2002, as  
15 amended by Section 23, Chapter 460, O.S.L. 2002 (22 O.S. Supp. 2009,  
16 Section 2002), is amended to read as follows:

17 Section 2002. A. Disclosure of Evidence by the State.

18 1. Upon request of the defense, the state shall be required to  
19 disclose the following:

- 20 a. the names and addresses of witnesses which the state  
21 intends to call at trial, together with their  
22 relevant, written or recorded statement, if any, or if  
23 none, significant summaries of any oral statement,  
24 b. law enforcement reports made in connection with the  
particular case,

- 1 c. any written or recorded statements and the substance  
2 of any oral statements made by the accused or made by  
3 a codefendant,
- 4 d. any reports or statements made by experts in  
5 connection with the particular case, including results  
6 of physical or mental examinations and of scientific  
7 tests, experiments, or comparisons,
- 8 e. any books, papers, documents, photographs, tangible  
9 objects, buildings or places which the prosecuting  
10 attorney intends to use in the hearing or trial or  
11 which were obtained from or belong to the accused,
- 12 f. any record of prior criminal convictions of the  
13 defendant, or of any codefendant, and
- 14 g. Oklahoma State Bureau of Investigation (OSBI) rap  
15 sheet/records check on any witness listed by the state  
16 or the defense as a witness who will testify at trial,  
17 as well as any convictions of any witness revealed  
18 through additional record checks if the defense has  
19 furnished social security numbers or date of birth for  
20 their witnesses, except OSBI rap sheet/record checks  
21 shall not provide date of birth, social security  
22 number, home phone number or address. Provided,  
23 however, the state shall not be required to provide an  
24 OSBI rap sheet, home address, home telephone number,

1           date of birth or social security number of any witness  
2           that is currently certified as a law enforcement  
3           officer by the Council on Law Enforcement Education  
4           and Training.

5           2. The state shall provide the defendant any evidence favorable  
6 to the defendant if such evidence is material to either guilt or  
7 punishment.

8           3. The prosecuting attorney's obligations under this standard  
9 extend to:

- 10           a. material and information in the possession or control  
11           of members of the prosecutor's staff,
- 12           b. any information in the possession of law enforcement  
13           agencies that regularly report to the prosecutor of  
14           which the prosecutor should reasonably know, and
- 15           c. any information in the possession of law enforcement  
16           agencies who have reported to the prosecutor with  
17           reference to the particular case of which the  
18           prosecutor should reasonably know.

19           B. Disclosure of Evidence by the Defendant.

20           1. Upon request of the state, the defense shall be required to  
21 disclose the following:

- 22           a. the names and addresses of witnesses which the defense  
23           intends to call at trial, together with their

1 relevant, written or recorded statement, if any, or if  
2 none, significant summaries of any oral statement,

3 b. the name and address of any witness, other than the  
4 defendant, who will be called to show that the  
5 defendant was not present at the time and place  
6 specified in the information or indictment, together  
7 with the witness' statement to that fact,

8 c. the names and addresses of any witness the defendant  
9 will call, other than himself, for testimony relating  
10 to any mental disease, mental defect, or other  
11 condition bearing upon his mental state at the time  
12 the offense was allegedly committed, together with the  
13 witness' statement of that fact, if the statement is  
14 redacted by the court to preclude disclosure of  
15 privileged communication.

16 2. A statement filed under subparagraph a, b or c of paragraph  
17 1 of subsection A or B of this section is not admissible in evidence  
18 at trial. Information obtained as a result of a statement filed  
19 under subsection A or B of this section is not admissible in  
20 evidence at trial except to refute the testimony of a witness whose  
21 identity subsection A of this section requires to be disclosed.

22 3. Upon the prosecuting attorney's request after the time set  
23 by the court, the defendant shall allow him access at any reasonable  
24 times and in any reasonable manner to inspect, photograph, copy, or

1 have reasonable tests made upon any book, paper, document,  
2 photograph, or tangible object which is within the defendant's  
3 possession or control and which:

4 a. the defendant intends to offer in evidence, except to  
5 the extent that it contains any communication of the  
6 defendant, or

7 b. is a report or statement as to a physical or mental  
8 examination or scientific test or experiment made in  
9 connection with the particular case prepared by and  
10 relating to the anticipated testimony of a person whom  
11 the defendant intends to call as a witness, provided  
12 the report or statement is redacted by the court to  
13 preclude disclosure of privileged communication.

14 C. Continuing Duty to Disclose.

15 If, prior to or during trial, a party discovers additional  
16 evidence or material previously requested or ordered, which is  
17 subject to discovery or inspection under the Oklahoma Criminal  
18 Discovery Code, such party shall promptly notify the other party,  
19 the attorney of the other party, or the court of the existence of  
20 the additional evidence or material.

21 D. Time of Discovery.

22 Motions for discovery may be made at the time of the district  
23 court arraignment or thereafter; provided that requests for police  
24 reports may be made subject to the provisions of Section 258 of this

1 title. However, a request pursuant to Section 258 of this title  
2 shall be subject to the discretion of the district attorney. All  
3 issues relating to discovery, except as otherwise provided, will be  
4 completed at least ten (10) days prior to trial. The court may  
5 specify the time, place and manner of making the discovery and may  
6 prescribe such terms and conditions as are just.

7 E. Regulation of Discovery.

8 1. Protective and Modifying Orders. Upon motion of the state  
9 or defendant, the court may at any time order that specified  
10 disclosures be restricted, or make any other protective order. If  
11 the court enters an order restricting specified disclosures, the  
12 entire text of the material restricted shall be sealed and preserved  
13 in the records of the court to be made available to the appellate  
14 court in the event of an appeal.

15 2. Failure to Comply with a Request. If at any time during the  
16 course of the proceedings it is brought to the attention of the  
17 court that a party has failed to comply with this rule, the court  
18 may order such party to permit the discovery or inspection, grant  
19 continuance, or prohibit the party from introducing evidence not  
20 disclosed, or it may enter such other order as it deems just under  
21 the circumstances.

22 3. The discovery order shall not include discovery of legal  
23 work product of either attorney which is deemed to include legal  
24 research or those portions of records, correspondence, reports, or

1 memoranda which are only the opinions, theories, or conclusions of  
2 the attorney or the attorney's legal staff.

3 F. Reasonable cost of copying, duplicating, videotaping,  
4 developing or any other cost associated with this Code for items  
5 requested shall be paid by the party so requesting; however, any  
6 item which was obtained from the defendant by the state of which  
7 copies are requested by the defendant shall be paid by the state.  
8 Provided, if the court determines the defendant is indigent and  
9 without funds to pay the cost of reproduction of the required items,  
10 the cost shall be paid by the Indigent Defender System, unless  
11 otherwise provided by law.

12 SECTION 2. This act shall become effective November 1, 2010.

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