

An Act

ENROLLED SENATE
BILL NO. 1520

By: Garrison of the Senate

and

McCall of the House

An Act relating to juvenile records; amending 10 O.S. 2011, Section 1419, which relates to the Commission for Rehabilitation Services; modifying notification date requirement; amending 10A O.S. 2011, Section 2-6-102, which relates to confidential juvenile records; allowing the Oklahoma School for the Blind and Oklahoma School for the Deaf to access certain records; providing an effective date; and declaring an emergency.

SUBJECT: Access to juvenile records

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

SECTION 1. AMENDATORY 10 O.S. 2011, Section 1419, is amended to read as follows:

Section 1419. A. The Commission for Rehabilitation Services shall establish and maintain such methods of administration, including methods relating to the establishment and maintenance of personnel standards, as are necessary for the proper and efficient administration of the Oklahoma School for the Blind and the Oklahoma School for the Deaf, and programs thereat; shall maintain records and reports, shall provide a uniform accounting system; and shall incur such expenses and make such expenditures as it deems necessary to maintain and operate such schools.

B. 1. Instructional Personnel. The Director of the State Department of Rehabilitation Services shall employ or contract with

such qualified instructional personnel including, but not limited to, teachers, and such other persons serving in an instructional capacity, as the director deems necessary for the proper operation of each school and shall fix their duties and compensation. The superintendent, teachers and other employees shall be eligible for membership or participation in the Teachers' Retirement System of Oklahoma to the same extent and on the same basis as teachers and other employees of other state educational institutions and public schools. The Director shall not employ or contract with a person as instructional personnel unless the superintendent of the school has recommended that person. If there is a vacancy in the superintendent position or if the superintendent is unable to make a recommendation within thirty (30) days after a request for a recommendation is made, the Director is authorized to employ or contract with any person without a recommendation from the superintendent.

2. Career Teacher. A career teacher is a member of the instructional staff who has served in an instructional capacity for three (3) or more consecutive years in either school, or who has served in a public school district in such a way so as to meet the definition of a career teacher as provided for in Section 6-101.3 of Title 70 of the Oklahoma Statutes. Career teacher shall not include a school nurse.

3. Probationary Teacher. A probationary teacher is a member of the instructional staff who has served in an instructional capacity for less than three (3) consecutive years in either school, or who has served in a public school district in such a way so as to meet the definition of a probationary teacher as provided for in Section 6-101.3 of Title 70 of the Oklahoma Statutes.

C. Administrative Personnel.

1. The Director of the State Department of Rehabilitation Services shall employ or appoint the superintendent of each school and shall fix their duties and compensation. The superintendents shall be in the unclassified service.

2. The Director of the State Department of Rehabilitation Services shall employ or contract with such other administrative personnel as the Director deems necessary for the proper operation

of each school and shall fix their duties and compensation. The administrative personnel may include, but is not limited to, assistant superintendents, principals, vice-principals and other persons who devote a majority of their time to service in a supervisory or administrative capacity.

D. An orientation and mobility specialist employed by the State Department of Rehabilitation Services to serve at the Oklahoma School for the Blind shall be accorded the same protection of laws and all other benefits accorded instructional personnel, including but not limited to, the minimum salary level for instructional personnel.

E. 1. The Commission shall, pursuant to the Administrative Procedures Act, adopt personnel policies for instructional and administrative personnel, except for superintendents, that are consistent with the law applicable to public school district employees, including, but not limited to, leave and employment policies, evaluation policy, grievance procedures, professional development, and a minimum salary schedule. The Commission shall initiate a rulemaking process for the personnel policies for instructional and administrative personnel no later than October 1, 2003. The minimum salary level for qualified instructional personnel shall meet or exceed the minimum salary level provided for public school teachers in Section ~~18-114.12~~ 18-114.14 of Title 70 of the Oklahoma Statutes or any additional minimum salary schedule enacted by the Legislature and the Commission shall meet or exceed any other legislatively mandated pay raises for teachers that are not part of the minimum salary schedule. The Department shall notify teachers and other personnel on or before ~~April 10~~ the first Monday in June of each year concerning the renewal of contracts consistent with the requirements for public school teachers as provided for in Section 6-101 of Title 70 of the Oklahoma Statutes. The policy for professional development programs for instructional and administrative personnel shall be consistent with the requirements for professional development programs for public school teachers as provided in Section 6-194 of Title 70 of the Oklahoma Statutes.

2. Final disciplinary action taken against a member of the instructional or administrative staff, except superintendents, including termination or the nonrenewal of a contract, shall be

subject to the administrative hearing procedures as set forth in Article II of the Oklahoma Administrative Procedures Act. If the final decision of the Director is to terminate or to not renew the contract of a career teacher or administrator, the career teacher or administrator, except superintendent, shall not have a right to judicial review pursuant to Article II of the Oklahoma Administrative Procedures Act, but shall have a right to a trial de novo as provided for in Section ~~2~~ 1419a of this ~~act~~ title. Disciplinary action against a probationary teacher shall be final unless otherwise provided for by law.

F. The State Department of Education shall insure that any funds which have been received in Oklahoma by the State Department of Education because of students who are enrolled and attending the Oklahoma School for the Blind and the Oklahoma School for the Deaf are transferred to the State Department of Rehabilitation Services for use by these schools in proportion to the number of students enrolled and attending who were the basis for the receipt of these federal funds.

G. School personnel who have entered into contracts with the schools on or before July 1, 1995, shall be entitled to longevity pay as provided in Section 840-2.18 of Title 74 of the Oklahoma Statutes.

SECTION 2. AMENDATORY 10A O.S. 2011, Section 2-6-102, is amended to read as follows:

Section 2-6-102. A. Except as provided by this section or as otherwise specifically provided by state or federal laws, the following juvenile records are confidential and shall not be open to the general public, inspected, or their contents disclosed:

1. Juvenile court records;
2. Agency records;
3. District attorney's records;
4. Law enforcement records;

5. Nondirectory education records; and
6. Social records.

B. The confidentiality limitation of subsection A of this section shall not apply to statistical information or information of a general nature obtained pursuant to the provisions of the Oklahoma Juvenile Code.

C. The confidentiality requirements of subsection A of this section for juvenile court records and law enforcement records shall not apply:

1. Upon the charging or certification of a juvenile as an adult or youthful offender;

2. Upon the charging of an individual pursuant to Section 2-5-101 of this title;

3. To a violation of any traffic regulation or motor vehicle regulation of Title 47 of the Oklahoma Statutes, or to a violation of any city ordinance or county resolution which relates to the regulation of traffic on the roads, highways or streets, or to the operation of self-propelled or nonself-propelled vehicles of any kind in this state;

4. To a juvenile who is fourteen (14) years of age or older and who has been adjudicated delinquent and who subsequently comes before the juvenile court on a new delinquency matter after July 1, 1995;

5. To a juvenile adjudicated a delinquent for committing a delinquent act which, if committed by an adult, would be a felony offense that is a crime against the person or a felony offense involving a dangerous weapon;

6. To arrest records of a juvenile arrested for committing an act, which if committed by an adult, would be a felony offense;

7. To a violation of the Prevention of Youth Access to Tobacco Act; or

8. Whenever a juvenile is accepted for placement or treatment in a facility or private treatment facility within this state as a result of or following a conviction or adjudication for an out-of-state offense that would qualify the juvenile as a youthful offender, as defined in Section 2-5-202 of this title, had the crime occurred within this state. The facility shall provide any law enforcement agency or peace officer all prior criminal offense, conviction, and adjudication information. If a juvenile flees or is otherwise absent from the facility without permission, the facility shall provide any law enforcement agency or peace officer all prior criminal offense, conviction, and adjudication information. Any law enforcement agency or peace officer shall have the authority to review or copy any records concerning the juvenile, including prior criminal offense, conviction, or adjudication information.

D. Following the first adjudication as a delinquent, the court having jurisdiction shall note on the juvenile court record of the person that any subsequent juvenile court records shall not be confidential; provided, the child is at least fourteen (14) years of age or older. Any juvenile court record which becomes an open juvenile record as provided in this subsection may be expunged as provided in Section ~~7307-1.8~~ 2-6-109 of this title.

The provisions of this subsection shall only apply to the juvenile court records and law enforcement records of juvenile offenders certified, charged or adjudicated on and after July 1, 1995.

E. When a delinquent child has escaped or run away from a training school or other institutional placement for delinquents, the name and description of the child may be released to the public by the agency having custody of the child as necessary and appropriate for the protection of the public and the apprehension of the delinquent child whether or not the juvenile record is confidential or open.

F. Except as otherwise required by state or federal law, the confidential records listed in subsection A of this section may only be inspected, released, disclosed, corrected or expunged pursuant to an order of the court. Except as otherwise provided in Section 601.6 of Title 10 of the Oklahoma Statutes or any provision of this chapter, no subpoena or subpoena duces tecum purporting to compel

disclosure of confidential information or any confidential juvenile record shall be valid.

G. An order of the court authorizing the inspection, release, disclosure, correction or expungement of confidential records shall be entered by the court only after a review of the records by the court and a determination by the court, with due regard for the confidentiality of the records and the privacy of persons identified in the records, that a compelling reason exists and such inspection, release or disclosure is necessary for the protection of a legitimate public or private interest.

Except for district attorney records, any court order authorizing the disclosure, release or inspection of a confidential juvenile record may be conditioned on such terms and restrictions as the court deems necessary and appropriate.

H. Upon receiving a written request for inspection, release, disclosure, or correction of a juvenile record, the court shall determine whether the record of a juvenile falls under one of the exceptions listed in subsection C of this section. If the record falls under one of the exceptions in subsection C of this section, the court shall issue an order authorizing inspection, release, disclosure or correction of the juvenile record. If the release of a juvenile record is authorized by the court, the Office of Juvenile Affairs shall provide information to the requestor regarding the location of the juvenile record to be released.

I. Any agency or person may seek an order from the juvenile court prohibiting the release of confidential information subject to disclosure without an order of the court pursuant to Section 620.6 of Title 10 of the Oklahoma Statutes or any provision of this chapter. The court may, for good cause shown, prohibit the release of such information or authorize release of the information upon such conditions as the court deems necessary and appropriate.

J. In accordance with the provisions of the Juvenile Offender Tracking Program and Section 620.6 of Title 10 of the Oklahoma Statutes:

1. Information included in the records listed in subsection A of this section may be entered in and maintained in the Juvenile Justice Information System and other automated information systems

related to services to children and youth whether or not the record is confidential or open; and

2. The information systems may be accessed by participating agencies as defined by this chapter or as otherwise provided by law.

K. The court may authorize a designated person to review juvenile court confidential reports and records and collect statistical information and other abstract information for research purposes. Such authorization shall be in writing and shall state specifically the type of information which may be reviewed and reported.

Each person granted permission to inspect confidential reports and records for research purposes shall present a notarized statement to the court stating that the names of juveniles, parents and other persons as may be required by the court to be confidential will remain confidential.

L. Nothing contained in the provisions of Section 620.6 of Title 10 of the Oklahoma Statutes or any provision of this chapter shall be construed as:

1. Authorizing the inspection of records or the disclosure of information contained in records relating to the provision of benefits or services funded, in whole or in part, with federal funds, except in accord with federal statutes and regulations governing the receipt or use of such funds;

2. Authorizing the disclosure of information required to be kept confidential by Section 7505-1.1, 7506-1.1 or 7510-1.5 of ~~this title~~ Title 10 of the Oklahoma Statutes, the Oklahoma Adoption Code or disclosure of any other confidential record pursuant to the provisions of this chapter;

3. Abrogating any privilege, including the attorney-client privilege, or affecting any limitation on such privilege found in any other statutes;

4. Limiting or otherwise affecting access of parties to a juvenile proceeding to any records filed with or submitted to the court;

5. Limiting or otherwise affecting access of agencies to information subject to disclosure, review or inspection by contract or as a condition for the receipt of public funds or participation in any program administered by the agency;

6. Prohibiting the Office of Juvenile Affairs from summarizing the outcome of an investigation to the person who reported a known or suspected instance of child abuse or neglect; or

7. Prohibiting the person or agency conducting a preliminary inquiry relating to an alleged delinquent act from providing information, as to the disposition of the matter by the district attorney, to the person or agency which referred the matter, including but not limited to whether a petition was filed or an alternative action taken, and the basis for such action and the terms of any agreement entered into by the child for payment of restitution, and including but not limited to provisions for community services.

M. The confidential records listed in subsection A of this section may be inspected and their contents disclosed without a court order to the Oklahoma School for the Blind, Oklahoma School for the Deaf, or a school district in which the child who is the subject of the record is currently enrolled or has been presented for enrollment. The inspection of records and disclosure authorized by this subsection may be limited to summaries or to information directly necessary for the purpose of such inspection or disclosure. Upon request by the Oklahoma School for the Blind, Oklahoma School for the Deaf, or a school district, the agency in possession of the records shall provide in writing, digitally, or by delivery to a secure facsimile line, the requested information to the school district within five (5) business days upon receipt of the request. Any records disclosed as provided by this subsection shall remain confidential. The use of any information shall be limited to the purposes for which disclosure is authorized.

N. The records of a case for which a petition is not filed shall be subject to the provisions of Chapter 6 of the Oklahoma Juvenile Code.

SECTION 3. This act shall become effective July 1, 2014.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 6th day of May, 2014.

Presiding Officer of the Senate

Passed the House of Representatives the 7th day of April, 2014.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____