STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

SENATE BILL 1235 By: Anderson

AS INTRODUCED

An Act relating to confidentiality; creating Tricity's Law; amending 51 O.S. 2011, Section 24A.8, as last amended by Section 2, Chapter 370, O.S.L. 2015 (51 O.S. Supp. 2015, Section 24A.8), which relates to law enforcement records; establishing certain exception to disclosure; providing for noncodification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known as "Tricity's Law".

SECTION 2. AMENDATORY 51 O.S. 2011, Section 24A.8, as last amended by Section 2, Chapter 370, O.S.L. 2015 (51 O.S. Supp. 2015, Section 24A.8), is amended to read as follows:

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

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

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

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

4. Radio logs, including a chronological listing of the calls dispatched;

5. Conviction information, including the name of any person convicted of a criminal offense;

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

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

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

9. Audio and video recordings from recording equipment attached to law enforcement vehicles or associated audio recordings from recording equipment on the person of a law enforcement officer; provided, the law enforcement agency may, before releasing any audio or video recording provided for in this paragraph, redact or obscure specific portions of the recording which:

a. depict the death of a person or a dead body, unless the death was effected by a law enforcement officer,

b. depict nudity,

c. would identify minors under the age of sixteen (16) years or would undermine any requirement to keep certain juvenile records confidential as provided for in Title 10A of the Oklahoma Statutes,

d. depict acts of severe violence resulting in great bodily injury, as defined in Section 11-904 of Title 47 of the Oklahoma Statutes, against persons that are clearly visible, unless the act of severe violence was effected by a law enforcement officer,

e. depict great bodily injury, as defined in Section 11-904 of Title 47 of the Oklahoma Statutes, unless the great bodily injury was effected by a law enforcement officer,

f. include personal medical information that is not already public,

g. would undermine the assertion of a privilege provided in Section 1-109 or Section 3-428 of Title 43A of the Oklahoma Statutes for detention or transportation for mental health evaluation or treatment or drug or alcohol detoxification purposes,

h. include personal information other than the name or license plate number of a person not arrested, cited, charged or issued a written warning. Such personal information shall include any government-issued identification number, date of birth, address or financial information, or

i. reveal the identity of law enforcement officers who have become subject to internal investigation by the law enforcement agency as a result of an event depicted in the recording. The option to protect the identity of a law enforcement officer shall not be available to the law enforcement agency after the law enforcement agency has concluded the investigation and rendered a decision as to final disciplinary action. At such time when an investigation has concluded and the law enforcement agency has rendered its decision as to final disciplinary action, the portions of the recordings previously withheld as provided for in this subparagraph shall be available for public inspection

and copying. The audio and video recordings withheld as provided for in this subparagraph shall be available for public inspection and copying before the conclusion of the investigation if the investigation lasts for an unreasonable amount of time; and

10. a. Audio and video recordings from recording equipment attached to the person of a law enforcement officer that depict:

(1) the use of any physical force or violence by a law enforcement officer,

(2) pursuits of any kind,

(3) traffic stops,

(4) any person being arrested, cited, charged or issued a written warning,

(5) events that directly led to any person being arrested, cited, charged or receiving a written warning,

(6) detentions of any length for the purpose of investigation,

(7) any exercise of authority by a law enforcement officer that deprives a citizen of his or her liberty,

(8) actions by a law enforcement officer that have become the cause of an investigation or charges being filed,

(9) recordings in the public interest that may materially aid a determination of whether law enforcement officers are appropriately performing their duties as public servants, or

(10) any contextual events occurring before or after the events depicted in divisions (1) through (9) of this subparagraph.

b. Notwithstanding the provisions of subparagraph a of this paragraph, the law enforcement agency may, before releasing any audio or video recording provided for in this paragraph, redact or obscure specific portions of the recording that:

(1) depict the death of a person or a dead body, unless the death was effected by a law enforcement officer,

(2) depict nudity,

(3) would identify minors under the age of sixteen (16) years or would undermine any requirement to keep certain juvenile records confidential as provided for in Title 10A of the Oklahoma Statutes,

(4) depict acts of severe violence resulting in great bodily injury, as defined in Section 11-904 of Title 47 of the Oklahoma Statutes, against persons that are clearly visible, unless the act of severe violence was effected by a law enforcement officer,

(5) depict great bodily injury, as defined in Section 11-904 of Title 47 of the Oklahoma Statutes, unless the great bodily injury was effected by a law enforcement officer,

(6) include personal medical information that is not already public,

(7) undermine the assertion of a privilege as provided in Section 1-109 or Section 3-428 of Title 43A of the Oklahoma Statutes for detention or transportation for mental health evaluation or treatment or drug or alcohol detoxification purposes,

(8) identify alleged victims of sex crimes or domestic violence,

(9) identify any person who provides information to law enforcement or the information provided by that person when that person requests anonymity or where disclosure of the identity of the person

or the information provided could reasonably be expected to threaten or endanger the physical safety or property of the person or the physical safety or property of others,

(10) undermine the assertion of a privilege to keep the identity of an informer confidential as provided for in Section 2510 of Title 12 of the Oklahoma Statutes,

(11) include personal information other than the name or license plate number of a person not officially arrested, cited, charged or issued a written warning. Such personal information shall include any government-issued identification number, date of birth, address or financial information,

(12) include information that would materially compromise an ongoing criminal investigation or ongoing criminal prosecution, provided that:

(a) ten (10) days following the formal arraignment or initial appearance, whichever occurs first, of a person charged in the case in question, the recording shall be made available for public inspection and copying with no redaction of the portions

that were temporarily withheld by reliance on this division. Provided, before potential release of a recording as provided for in this subdivision, the prosecutor or legal representative of the person charged may request from the appropriate district court an extension of time during which the recording may be withheld under the provisions of this division. When a request for an extension of time has been filed with the court, the recording in question may be withheld until the court has issued a ruling. Such requests for an extension of the time during which the recording may be withheld may be made on the grounds that release of the recording will materially compromise an ongoing criminal investigation or criminal prosecution or on the grounds that release of the recording will materially compromise the right of an accused to a fair trial that has yet to begin. Courts considering such requests shall conduct a hearing and consider whether the interests of the public outweigh the

interests asserted by the parties. In response to such requests, the court shall order that the recording be made available for public inspection and copying with no redaction of the portions that were temporarily withheld by reliance on this division or order an extension of time during which the recording may be withheld under the provisions of this division. Provided further, each such time extension shall only be ordered by the court for an additional six-month period of time or less and cumulative time extensions shall not add up to more than eighteen (18) months, or

(b) in the event that one hundred twenty (120) days expire from the date of the events depicted in the recording without any person being criminally charged in the case in question and release of a recording or portions of a recording have been denied on the grounds provided for in this division, an appeal of such denial may be made to the appropriate district court. In situations where one hundred twenty (120) days have

expired since the creation of the recording, criminal charges have not been filed against a person and the recording is being withheld on the grounds provided for in this division, courts considering appeals to the use of the provisions of this division for temporarily withholding a recording shall conduct a hearing and consider whether the interests of the public outweigh the interests of the parties protected by this division. In response to such appeals, the district court shall order that the recording be made available for public inspection and copying with no redaction of the portions that were temporarily withheld by reliance on this division or order an extension of time during which the recording may be withheld under the provisions of this division. An order granting an extension of time shall be applicable to the recording against all appellants for the duration of the extension. Provided, each such time extension shall only be ordered by the district court for an additional twelve-

month period of time or less and cumulative time extensions shall not add up to more than three (3) years. Provided, charges being filed against a person in the case in question automatically cancels any extension of time. A new request for an extension of time following an arraignment or initial appearance may be requested by the parties on the grounds and under the terms provided for in subdivision (a) of this division.

The options presented in this division to potentially withhold a recording or portions of a recording on the grounds provided for in this division shall expire in totality four (4) years after the recording was made at which time all recordings previously withheld on the grounds provided for in this division shall be made available for public inspection and copying, or

(13) reveal the identity of law enforcement officers who have become subject to internal investigation by the law enforcement agency as a result of an event depicted in the recording. The option to protect the identity of a law enforcement officer shall not be available to the law enforcement

agency after the law enforcement agency has concluded the investigation and rendered a decision as to final disciplinary action. At such time when an investigation has concluded and the law enforcement agency has rendered its decision as to final disciplinary action, the portions of the recordings previously withheld as provided for in this division shall be available for public inspection and copying. The audio and video recordings withheld on the grounds provided for in this division shall be available for public inspection and copying before the conclusion of the investigation if the investigation lasts for an unreasonable amount of time.

B. Except for the records listed in subsection A of this section and those made open by other state or local laws, law enforcement agencies may deny access to law enforcement records except where a court finds that the public interest or the interest of an individual outweighs the reason for denial. The provisions of this section shall not operate to deny access to law enforcement records if such records have been previously made available to the public as provided in the Oklahoma Open Records Act or as otherwise provided by law.

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

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

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

1. To verify the current certification status of any peace officer;

2. As may be required to perform the duties imposed by Section 3311 of Title 70 of the Oklahoma Statutes;

3. To provide to any peace officer copies of the records of that peace officer upon submitting a written request;

4. To provide, upon written request, to any law enforcement agency conducting an official investigation, copies of the records of any peace officer who is the subject of such investigation;

5. To provide final orders of administrative proceedings where an adverse action was taken against a peace officer; and

6. Pursuant to an order of the district court of the State of Oklahoma.

F. The Department of Public Safety shall keep confidential:

1. All records it maintains pursuant to its authority under Title 47 of the Oklahoma Statutes relating to the Oklahoma Highway Patrol Division, the Communications Division, and other divisions of the Department relating to:

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

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

c. the following information from radio logs:

(1) telephone numbers,

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

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

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

G. Notwithstanding the requirements of this section, in no event shall the name of a minor child whose parent or parents have been a victim of a crime, accused of a crime or convicted of a crime be disclosed to the public by any law enforcement official or used by any member of the press, regardless of whether such name has become common knowledge.

SECTION 3. This act shall become effective November 1, 2016.

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