

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

HOUSE BILL NO. 2505

By: McDaniel (Randy) of the
House

5 and

6 Newberry of the Senate

7
8
9 COMMITTEE SUBSTITUTE

10 An Act relating to labor; amending 40 O.S. 2011,
11 Section 2-203, as amended by Section 1, Chapter 148,
O.S.L. 2013 (40 O.S. Supp. 2013, Section 2-203),
12 which relates to unemployment claims requiring
certified statement; providing for rules, review and
13 report; amending 40 O.S. 2011, Section 2-406, as
amended by Section 2, Chapter 148, O.S.L. 2013 (40
O.S. Supp. 2013, Section 2-406), which relates to
14 misconduct; modifying definitions; requiring no
warning notice for misconduct; providing rebuttable
15 presumption of misconduct for failure to meet certain
standards; providing conditions for back pay to be
16 subtracted from benefit amount; providing for
redetermination of back pay during furlough or work
17 stoppage; amending 40 O.S. 2011, Sections 2-210, 2-
503, as last amended by Section 6, Chapter 71, O.S.L.
18 2013 (40 O.S. Supp. 2013, Section 2-503), 2-506, 2-
609, 3-105 and 4-508, as last amended by Section 132,
19 Chapter 304, O.S.L. 2012 (40 O.S. Supp. 2013, Section
4-508), which relate to Employment Security Act of
20 1980; modifying definitions; providing for untimely
employer objection; modifying reconsideration of
21 determinations; removing obsolete language; modifying
benefit wage charges; requiring certain
22 administrative records be presented within certain
time; repealing 40 O.S. 2011, Sections 2-900, 2-901,
23 2-902, 2-903, 2-904, 2-905, 2-906, 2-907, 2-908, 2-
909 and 2-910, which relate to the Shared Work

1 Unemployment Compensation Program; providing for
2 codification; and providing an effective date.

3
4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

5 SECTION 1. AMENDATORY 40 O.S. 2011, Section 2-203, as
6 amended by Section 1, Chapter 148, O.S.L. 2013 (40 O.S. Supp. 2013,
7 Section 2-203), is amended to read as follows:

8 Section 2-203. CLAIM.

9 A. An unemployed individual must file an initial claim for
10 unemployment benefits by calling an Oklahoma Employment Security
11 Commission claims representative in a Commission Call Center, by
12 completing the required forms through the Internet Claims service
13 provided by the Commission, or by completing all forms necessary to
14 process an initial claim in a local office of the Commission or any
15 alternate site designated by the Commission to take unemployment
16 benefit claims. The Commission may obtain additional information
17 regarding an individual's claim through any form of
18 telecommunication, writing, or interview. An unemployed individual
19 must file a claim in writing or by telecommunication for benefits
20 with respect to each week in accordance with such rule as the
21 Commission may prescribe.

22 B. 1. During the process of filing an initial claim for
23 unemployment benefits, the claimant shall be made aware of the
24 definition of misconduct set out in Section 2-406 of this title, and

1 the claimant shall affirmatively certify that the answers given to
2 all questions in the initial claim process are true and correct to
3 the best of the claimant's knowledge and that no information has
4 been intentionally withheld or misrepresented in an attempt by the
5 claimant to receive benefits to which he or she is not entitled.

6 2. The certification statement required in paragraph 1 of this
7 subsection shall be available through the Internet Claims service
8 provided by the Commission and by a form to be completed by the
9 claimant in a local office of the Commission or at any alternate
10 site designated by the Commission to take unemployment benefit
11 claims.

12 C. With respect to each week, he or she must provide the
13 Commission with a true and correct statement of all material facts
14 relating to: his or her unemployment; ability to work; availability
15 for work; activities or conditions which could restrict the
16 individual from seeking or accepting full-time employment
17 immediately; applications for or receipt of workers' compensation
18 benefits; employment and earnings; and the reporting of other income
19 from retirement, pension, disability, self-employment, education or
20 training allowances.

21 D. No claim will be allowed or paid unless the claimant resides
22 within a state or foreign country with which the State of Oklahoma
23 has entered into a reciprocal or cooperative arrangement pursuant to
24 Part 7 of Article IV of the Employment Security Act of 1980.

1 E. The Commission may require the individual to produce
2 documents or information relevant to the claim for benefits. If the
3 individual has the ability to produce the documents or information
4 and fails to produce it, the individual's claim for unemployment
5 benefits may be disqualified indefinitely by the Commission until
6 the information is produced. The Commission may require the
7 individual to personally appear at a location for a purpose relevant
8 to the individual's unemployment claim or job search. If the
9 individual fails to appear, the individual's claim for unemployment
10 benefits may be disqualified indefinitely by the Commission until
11 the individual makes a personal appearance as directed. An
12 individual that has been disqualified indefinitely by the provisions
13 of this subsection may receive payment for any week between the
14 initial failure and the compliance with this subsection if the
15 claimant is otherwise eligible and has made a timely filing for each
16 intervening week.

17 SECTION 2. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 2-406.2 of Title 40, unless
19 there is created a duplication in numbering, reads as follows:

20 The Oklahoma Employment Security Commission shall promulgate
21 rules requiring the Board of Review to review at least five percent
22 (5%) of its unemployment benefit cases where misconduct was alleged
23 and decided either in favor of or against the employer. The cases
24 reviewed pursuant to this section shall be summarized in an annual

1 report which shall be delivered to the President Pro Tempore of the
2 Senate, the Speaker of the House of Representatives, and the chairs
3 of the Senate Committee on Business and Commerce and the House
4 Committee on Economic Development and Financial Services, or its
5 successor committee.

6 SECTION 3. AMENDATORY 40 O.S. 2011, Section 2-406, as
7 amended by Section 2, Chapter 148, O.S.L. 2013 (40 O.S. Supp. 2013,
8 Section 2-406), is amended to read as follows:

9 Section 2-406. DISCHARGE FOR MISCONDUCT.

10 A. An individual shall be disqualified for benefits if he or
11 she has been discharged for misconduct connected with his or her
12 last work. If discharged for misconduct, the employer shall have
13 the burden to prove that the employee engaged in misconduct as
14 defined by this section. Such burden of proof is satisfied by the
15 employer, or its designated representative, providing a signed
16 affidavit, or presenting such other evidence which properly
17 demonstrates the misconduct which resulted in the discharge. Once
18 this burden is met, the burden then shifts to the discharged
19 employee to prove that the facts are inaccurate or that the facts as
20 stated do not constitute misconduct as defined by this section.
21 Disqualification under this section shall continue for the full
22 period of unemployment next ensuing after he or she has been
23 discharged for misconduct connected with his or her work and until
24

1 such individual has become reemployed and has earned wages equal to
2 or in excess of ten (10) times the weekly benefit amount.

3 B. "Misconduct" ~~shall~~ is any act or omission by an employee
4 which constitutes a material or substantial breach of the employee's
5 job duties or responsibilities or obligations pursuant to his or her
6 employment or contract of employment. Acts which constitute
7 misconduct under this section include, but shall not be limited to,
8 the following:

9 1. ~~Unexplained~~ Unapproved or excessive absenteeism or
10 tardiness;

11 2. ~~Willful or wanton indifference to~~ Indifference to, breach
12 of, or neglect of the duties required which result in a material or
13 substantial breach of the employee's job duties or responsibilities;

14 3. ~~Willful or wanton breach of any duty required by the~~
15 ~~employer;~~

16 4. ~~The mismanagement of a position of employment by action or~~
17 ~~inaction;~~

18 5. Actions or omissions that place in jeopardy the health,
19 life, or property of self or others;

20 ~~6.~~ 4. Dishonesty;

21 ~~7.~~ 5. Wrongdoing;

22 ~~8.~~ 6. Violation of a law; or
23
24

1 ~~9.~~ 7. A violation of a policy or rule ~~adopted~~ enacted to ensure
2 orderly ~~work or~~ and proper job performance or for the safety of self
3 or others.

4 C. Any misconduct violation as defined in subsection B of this
5 section shall not require a prior warning from the employer. As
6 long as the employee knew, or should have reasonably known, that a
7 rule or policy of the employer was violated, the employee shall not
8 be eligible for benefits.

9 D. Any finding by a state or federal agency of any failure by
10 the employee to meet the applicable civil, criminal or professional
11 standards of the employee's profession shall create a rebuttable
12 presumption of such misconduct, and benefits shall be denied, unless
13 the employee can show, with clear and convincing evidence, that such
14 misconduct did not occur, or the Commission determines that such
15 failure did not constitute misconduct as defined herein. However,
16 if any state or federal agency finds that the employee committed a
17 criminal act, that finding shall serve as conclusive proof of
18 misconduct, and benefits shall be denied.

19 SECTION 4. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 2-105.1 of Title 40, unless
21 there is created a duplication in numbering, reads as follows:

22 A. Reimbursed pay or back pay received by a claimant shall be
23 subtracted from the benefit amount drawn by a claimant in each week
24 in which:

1 1. The claimant is placed on furlough or work stoppage by his
2 or her employer;

3 2. The claimant is not paid wages or salary during the pendency
4 of the furlough or work stoppage;

5 3. The furlough or work stoppage is due to a lapse in
6 appropriations, funding or budget shortfall affecting the employer;

7 4. After the furlough or work stoppage concludes, the claimant
8 is reimbursed his or her full pay for the period during which the
9 furlough or work stoppage occurred; and

10 5. The employer considers the employee as having been in a pay
11 status during the furlough or work stoppage.

12 B. If reimbursed pay or back pay is required to be subtracted
13 from the claimant's benefit amount pursuant to subsection A of this
14 section, the eligibility for benefits of each week in question shall
15 be redetermined pursuant to Section 2-506 of Title 40 of the
16 Oklahoma Statutes and the amount of reimbursed pay or back pay
17 received by the claimant shall be deducted from any unemployment
18 benefits drawn during the pendency of the furlough or work stoppage.
19 Any party to the redetermination may appeal pursuant to Section 2-
20 603 of Title 40 of the Oklahoma Statutes. Any overpayment of
21 benefits established under this section shall be collected in the
22 same manner as an overpayment established under paragraph 2 of
23 Section 2-613 of Title 40 of the Oklahoma Statutes.

SECTION 5. AMENDATORY 40 O.S. 2011, Section 2-210, is amended to read as follows:

Section 2-210. In addition to the eligibility provisions provided by this act, an individual shall be eligible to receive unemployment benefits, if monetarily and otherwise eligible, if the claimant was separated from work due to compelling family circumstances. For purposes of this section:

1. "Immediate family member" means the claimant's spouse, parents and ~~minor~~ dependent children;

2. "Illness" means a verified illness which necessitates the care of the ill person for a period of time longer than the employer is willing to grant paid or unpaid leave;

3. "Disability" means a verified disability which necessitates the care of the disabled person for a period of time longer than the employer is willing to grant paid or unpaid leave. Disability encompasses all types of disability, including:

- a. mental and physical disabilities,
- b. permanent and temporary disabilities, and
- c. partial and total disabilities; and

4. "Compelling family circumstances" means:

- a. if the claimant was separated from employment with the employer because of the illness or disability of the claimant and, based on available information, the Oklahoma Employment Security Commission finds that it

- 1 was medically necessary for the claimant to stop
2 working or change occupations,
- 3 b. the claimant was separated from work due to the
4 illness or disability of an immediate family member,
- 5 c. if the spouse of the claimant was transferred or
6 obtained employment in another city or state, and the
7 family is required to move to the location of that job
8 that is outside of commuting distance from the prior
9 employment of the claimant, and the claimant separates
10 from employment in order to move to the new employment
11 location of the spouse,
- 12 d. if the claimant separated from employment due to
13 domestic violence or abuse, verified by any reasonable
14 ~~or confidential documentation~~ evidence, which causes
15 the individual to reasonably believe that the
16 individual's continued employment would jeopardize the
17 safety of the individual or of any member of the
18 individual's immediate family, or
- 19 e. if the claimant separated from employment to move with
20 the claimant's spouse to a new location, and if the
21 spouse of the claimant:
- 22 (1) was a member of the U.S. Military, the U.S.
23 Military Reserve, or the National Guard,
- 24

- 1 (2) was on active duty within ninety (90) days of the
2 date of discharge,
3 (3) has a service-connected disability,
4 (4) was discharged under honorable conditions from
5 the military service, and
6 (5) takes up residence at a location more than fifty
7 (50) miles away from the claimant's former
8 employer for the purpose of reentering civilian
9 life.

10 SECTION 6. AMENDATORY 40 O.S. 2011, Section 2-503, as
11 last amended by Section 6, Chapter 71, O.S.L. 2013 (40 O.S. Supp.
12 2013, Section 2-503), is amended to read as follows:

13 Section 2-503. CLAIMS, NOTICES AND OBJECTIONS.

14 A. Claims for benefits shall be made in accordance with all
15 rules that the Oklahoma Employment Security Commission may
16 prescribe.

17 B. Promptly after an initial claim or an additional initial
18 claim is filed, the Commission shall give written notice of the
19 claim to the last employer of the claimant for whom he or she worked
20 at least fifteen (15) working days. The required fifteen (15)
21 working days are not required to be consecutive. Provided, that
22 promptly after the Commission is notified of the claimant's
23 separation from an employment obtained by a claimant during a
24 continued claim series, the Commission shall give written notice of

1 the claim to the last separating employer. Notices to separating
2 employers during a continued claim series will be given to the last
3 employer in the claim week without regard to length of employment.

4 C. Promptly after the claim is paid for the fifth week of
5 benefits the Commission shall give written notice of the claim to
6 all other employers of the claimant during the claimant's base
7 period. The notice will be given pursuant to Section 3-106 of this
8 title.

9 D. Notices shall be deemed given when the Commission deposits
10 the same in the United States mail addressed to the employer's last-
11 known address. Notice shall be presumed prima facie to have been
12 given to the employer to whom addressed on the date stated in the
13 written notice. If the employer has elected to be notified by
14 electronic means according to procedures set out in Oklahoma
15 Employment Security Commission rules, notice shall be deemed to be
16 given when the Commission transmits the notification by electronic
17 means.

18 E. Within ten (10) days after the date on the notice or the
19 date of the postmark on the envelope in which the notice was sent,
20 whichever is later, an employer may file with the Commission at the
21 address prescribed in the notice written objections to the claim
22 setting forth specifically the facts which:

23 1. Make the claimant ineligible for benefits under Sections 2-
24 201 through 2-210 of this title;

1 2. Disqualify the claimant from benefits under Sections 2-401
2 through 2-419 of this title; or

3 3. Relieve such employer from being charged for the benefits
4 wages of such claimant.

5 F. An untimely employer objection to a claim for unemployment
6 benefits made pursuant to subsection E of this section may be
7 allowed for good cause shown.

8 SECTION 7. AMENDATORY 40 O.S. 2011, Section 2-506, is
9 amended to read as follows:

10 Section 2-506. REDETERMINATIONS.

11 The Oklahoma Employment Security Commission may reconsider a
12 determination only when it finds that an error in computation or
13 identity has occurred in connection therewith, or that wages of the
14 claimant pertinent to such determination, but not considered in
15 connection therewith, have been newly determined, or that reimbursed
16 pay or back pay was received by a claimant under circumstances that
17 would reduce the amount of benefits drawn, or that benefits have
18 been allowed or denied or the amount of benefits fixed on the basis
19 of misrepresentation or mistake of material facts, but no such
20 redetermination shall be made after the expiration of the benefit
21 year established by the initial determination, except that a
22 determination made because of a false statement or representation or
23 failure to disclose a material fact in violation of Section 5-102 or
24 5-103 of this title may be redetermined within two (2) years from

1 the date of such false statement or representation or failure to
2 disclose. Notice of any such redetermination shall be promptly
3 given to the parties entitled to notice of the original
4 determination, in the manner prescribed in the Employment Security
5 Act of 1980 with respect to notice of an original determination. If
6 the amount of benefits is increased upon such redetermination, an
7 appeal therefrom solely with respect to the matters involved in such
8 increase may be filed in the manner and subject to the limitations
9 provided in Part 5 of Article 2 of the Employment Security Act of
10 1980. If the amount of benefits is decreased upon such
11 redetermination, the matters involved in such decrease shall be
12 subject to review in connection with an appeal by claimant from any
13 determination upon a subsequent claim for benefits which may be
14 affected in amount or duration by such redetermination. Subject to
15 the same limitations and for the same reasons, the Commission may
16 reconsider the determination in any case in which the final decision
17 has been rendered by an appeal tribunal, the Board of Review or a
18 court, and may apply to the body or court which rendered such final
19 decision to issue a revised decision. In the event that an appeal
20 involving an original determination is pending as of the date a
21 redetermination thereof is issued, such appeal, unless withdrawn,
22 shall be treated as an appeal from such redetermination.

23 SECTION 8. AMENDATORY 40 O.S. 2011, Section 2-609, is
24 amended to read as follows:

1 Section 2-609. RULE OF DECISION.

2 A final decision of the Board of Review, or of an Appeal
3 Tribunal referee, and the principles of law declared in arriving at
4 such decision, unless expressly or impliedly overruled by a later
5 decision of the Board of Review or by a court of competent
6 jurisdiction, shall be binding upon the Commission and Appeal
7 Tribunal referees in subsequent proceedings which involve the same
8 questions of law; ~~provided, if in connection with any subsequent~~
9 ~~proceeding an Appeal Tribunal referee has serious doubt as to the~~
10 ~~correctness of any principle so declared he or she may certify his~~
11 ~~or her findings of fact in the case, together with the question of~~
12 ~~law involved, to the Board of Review, which, after giving notice and~~
13 ~~reasonable opportunity for briefing to all parties to the~~
14 ~~proceeding, shall return to the Commission adjudicator, the Appeal~~
15 ~~Tribunal referee and the parties its answer to the question~~
16 ~~submitted by written decision. Any decision made by the Board of~~
17 ~~Review on a certified question shall be subject to judicial review~~
18 ~~pursuant to Section 2-610 of this title.~~

19 SECTION 9. AMENDATORY 40 O.S. 2011, Section 3-105, is
20 amended to read as follows:

21 Section 3-105. BENEFIT WAGES - ~~YEAR~~ QUARTER CHARGED. When in
22 any benefit year a claimant is paid benefits for his or her fifth
23 compensable week of unemployment or is paid benefits as defined in
24 paragraph ~~(3)~~ of Section 4-702 of this title, his or her taxable

1 wages during his or her base period shall be treated, for the
2 purpose of this part, as though they had been paid in the calendar
3 year quarter in which ~~such~~ the fifth compensable week of
4 unemployment benefits are paid.

5 SECTION 10. AMENDATORY 40 O.S. 2011, Section 4-508, as
6 last amended by Section 132, Chapter 304, O.S.L. 2012 (40 O.S. Supp.
7 2013, Section 4-508), is amended to read as follows:

8 Section 4-508. INFORMATION TO BE KEPT CONFIDENTIAL -
9 DISCLOSURE.

10 A. Except as otherwise provided by law, information obtained
11 from any employing unit or individual pursuant to the administration
12 of the Employment Security Act of 1980, the Workforce Investment Act
13 of 1998, and determinations as to the benefit rights of any
14 individual shall be kept confidential and shall not be disclosed or
15 be open to public inspection in any manner revealing the
16 individual's or employing unit's identity. Any claimant or employer
17 or agent of such person as authorized in writing shall be supplied
18 with information from the records of the Oklahoma Employment
19 Security Commission, to the extent necessary for the proper
20 presentation of the claim or complaint in any proceeding under the
21 Employment Security Act of 1980, with respect thereto.

22 B. Upon receipt of written request by any employer who
23 maintains a Supplemental Unemployment Benefit (SUB) Plan, the
24 Commission or its designated representative may release to such

1 employer information regarding weekly benefit amounts paid its
2 workers during a specified temporary layoff period, provided such
3 Supplemental Unemployment Benefit (SUB) Plan requires benefit
4 payment information before Supplemental Unemployment Benefits can be
5 paid to such workers. Any information disclosed under this
6 provision shall be utilized solely for the purpose outlined herein
7 and shall be held strictly confidential by the employer.

8 C. The provisions of this section shall not prevent the
9 Commission from disclosing the following information and no
10 liability whatsoever, civil or criminal, shall attach to any member
11 of the Commission or any employee thereof for any error or omission
12 in the disclosure of such information:

13 1. The delivery to taxpayer or claimant a copy of any report or
14 other paper filed by the taxpayer or claimant pursuant to the
15 Employment Security Act of 1980;

16 2. The disclosure of information to any person for a purpose as
17 authorized by the taxpayer or claimant pursuant to a waiver of
18 confidentiality. The waiver shall be in writing and shall be
19 notarized;

20 3. The Oklahoma Department of Commerce may have access to data
21 obtained pursuant to the Employment Security Act of 1980 pursuant to
22 rules promulgated by the Commission. The information obtained shall
23 be held confidential by the Department and any of its agents and
24 shall not be disclosed or be open to public inspection. The

1 Oklahoma Department of Commerce, however, may release aggregated
2 data, either by industry or county, provided that such aggregation
3 meets disclosure requirements of the Commission;

4 4. The publication of statistics so classified as to prevent
5 the identification of a particular report and the items thereof;

6 5. The disclosing of information or evidence to the Attorney
7 General or any district attorney when the information or evidence is
8 to be used by the officials or other parties to the proceedings to
9 prosecute or defend allegations of violations of the Employment
10 Security Act of 1980. The information disclosed to the Attorney
11 General or any district attorney shall be kept confidential by them
12 and not be disclosed except when presented to a court in a
13 prosecution of a violation of Section 1-101 et seq. of this title,
14 and a violation by the Attorney General or district attorney by
15 otherwise releasing the information shall be a felony;

16 6. The furnishing, at the discretion of the Commission, of any
17 information disclosed by the records or files to any official person
18 or body of this state, any other state or of the United States who
19 is concerned with the administration of assessment of any similar
20 tax in this state, any other state or the United States;

21 7. The furnishing of information to other state agencies for
22 the limited purpose of aiding in the collection of debts owed by
23 individuals to the requesting agencies or the Oklahoma Employment
24 Security Commission;

1 8. The release to employees of the Department of Transportation
2 or any Metropolitan Planning Organization as defined in 23 U.S.C.,
3 Section 134 and 49 U.S.C., Section 5303 of information required for
4 use in federally mandated regional transportation planning, which is
5 performed as a part of its official duties;

6 9. The release to employees of the State Treasurer's office of
7 information required to verify or evaluate the effectiveness of the
8 Oklahoma Small Business Linked Deposit Program on job creation;

9 10. The release to employees of the Attorney General, the State
10 Insurance Fund, the Department of Labor, the Workers' Compensation
11 ~~Court~~ Commission, and the Insurance Department for use in
12 investigation of workers' compensation fraud;

13 11. The release to employees of the Oklahoma State Bureau of
14 Investigation or release to employees of the Oklahoma State Bureau
15 of Narcotics and Dangerous Drugs Control for use in criminal
16 investigations and the location of missing persons or fugitives from
17 justice;

18 12. The release to employees of the Center of International
19 Trade, Oklahoma State University, of information required for the
20 development of International Trade for employers doing business in
21 the State of Oklahoma;

22 13. The release to employees of the Oklahoma State Regents for
23 Higher Education of information required for use in the default
24 prevention efforts and/or collection of defaulted student loans

1 guaranteed by the Oklahoma Guaranteed Student Loan Program. Any
2 information disclosed under this provision shall be utilized solely
3 for the purpose outlined herein and shall be held strictly
4 confidential by the Oklahoma State Regents for Higher Education;

5 14. The release to employees of the Center for Economic and
6 Management Research of the University of Oklahoma, the Center for
7 Economic and Business Development at Southwestern Oklahoma State
8 University, or a center of economic and business research or
9 development at a comprehensive or regional higher education
10 institution within the Oklahoma State System of Higher Education of
11 information required to identify economic trends. The information
12 obtained shall be kept confidential by the higher education
13 institution and shall not be disclosed or be open to public
14 inspection. The higher education institution may release aggregated
15 data, provided that such aggregation meets disclosure requirements
16 of the Commission;

17 15. The release to employees of the Office of Management and
18 Enterprise Services of information required to identify economic
19 trends. The information obtained shall be kept confidential by the
20 Office of Management and Enterprise Services and shall not be
21 disclosed or be open to public inspection. The Office of Management
22 and Enterprise Services may release aggregate data, provided that
23 such aggregation meets disclosure requirements of the Commission;

1 16. The release to employees of the Department of Mental Health
2 and Substance Abuse Services of information required to evaluate the
3 effectiveness of mental health and substance abuse treatment and
4 state or local programs utilized to divert persons from inpatient
5 treatment. The information obtained shall be kept confidential by
6 the Department and shall not be disclosed or be open to public
7 inspection. The Department of Mental Health and Substance Abuse
8 Services, however, may release aggregated data, either by treatment
9 facility, program or larger aggregate units, provided that such
10 aggregation meets disclosure requirements of the Oklahoma Employment
11 Security Commission;

12 17. The release to employees of the Attorney General, the
13 Oklahoma State Bureau of Investigation, and the Insurance Department
14 for use in the investigation of insurance fraud and health care
15 fraud;

16 18. The release to employees of public housing agencies for
17 purposes of determining eligibility pursuant to 42 U.S.C., Section
18 503(i);

19 19. The release of wage and benefit claim information, at the
20 discretion of the Commission, to an agency of this state or its
21 political subdivisions, or any nonprofit corporation that operates a
22 program or activity designated as a partner in the Workforce
23 Investment Act One-Stop delivery system pursuant to 29 U.S.C.A.,
24 Section 2481 (b), based on a showing of need made to the Commission

1 and after an agreement concerning the release of information is
2 entered into with the entity receiving the information;

3 20. The release of information to the wage record interchange
4 system, at the discretion of the Commission;

5 21. The release of information to the Bureau of the Census of
6 the U.S. Department of Commerce for the purpose of economic and
7 statistical research;

8 22. The release of employer tax information and benefit claim
9 information to the Oklahoma Health Care Authority for use in
10 determining eligibility for a program that will provide subsidies
11 for health insurance premiums for qualified employers, employees,
12 self-employed persons, and unemployed persons;

13 23. The release of employer tax information and benefit claim
14 information to the State Department of Rehabilitation Services for
15 use in assessing results and outcomes of clients served;

16 24. The release of information to any state or federal law
17 enforcement authority when necessary in the investigation of any
18 crime in which the Commission is a victim. Information that is
19 confidential under this section shall be held confidential by the
20 law enforcement authority unless and until it is required for use in
21 court in the prosecution of a defendant in a criminal prosecution;

22 25. The release of information to vendors that contract with
23 the Oklahoma Employment Security Commission to provide for the
24 issuance of debit cards, to conduct electronic fund transfers, to

1 perform computer programming operations, or to perform computer
2 maintenance or replacement operations; provided the vendor agrees to
3 protect and safeguard the information it receives and to destroy the
4 information when no longer needed for the purposes set out in the
5 contract;

6 26. The release to employees of the Office of Juvenile Affairs
7 of information for use in assessing results and outcomes of clients
8 served as well as the effectiveness of state and local juvenile and
9 justice programs including prevention and treatment programs. The
10 information obtained shall be kept confidential by the Office of
11 Juvenile Affairs and shall not be disclosed or be open to public
12 inspection. The Office of Juvenile Affairs may release aggregated
13 data for programs or larger aggregate units, provided that the
14 aggregation meets disclosure requirements of the Oklahoma Employment
15 Security Commission; or

16 27. The release of information to vendors that contract with
17 the State of Oklahoma for the purpose of providing a public
18 electronic labor exchange system that will support the Oklahoma
19 Employment Security Commission's operation of an employment service
20 system to connect employers with job seekers and military veterans.
21 This labor exchange system would enhance the stability and security
22 of Oklahoma's economy as well as support the provision of veterans'
23 priority of service. The vendors may perform computer programming
24 operations, perform computer maintenance or replacement operations,

1 or host the electronic solution; provided each vendor agrees to
2 protect and safeguard all information received, that no information
3 shall be disclosed to any third party, that the use of the
4 information shall be restricted to the scope of the contract, and
5 that the vendor shall properly dispose of all information when no
6 longer needed for the purposes set out in the contract.

7 D. Subpoenas to compel disclosure of information made
8 confidential by this statute shall not be valid, except for
9 administrative subpoenas issued by federal, state, or local
10 governmental agencies that have been granted subpoena power by
11 statute or ordinance. Confidential information maintained by the
12 Commission can be obtained by order of a court of record that
13 authorizes the release of the records in writing. All
14 administrative subpoenas or court orders for production of documents
15 must provide a minimum of twenty (20) days from the date it is
16 served for the Commission to produce the documents. If the date on
17 which production of the documents is required is less than twenty
18 (20) days from the date of service, the subpoena or order shall be
19 considered void on its face as an undue burden or hardship on the
20 Commission. All administrative subpoenas, court orders or notarized
21 waivers of confidentiality authorized by paragraph 2 of subsection C
22 of this section shall be presented with a request for records within
23 ninety (90) days of the date the document is issued or signed and
24 the document can only be used one time to obtain records.

1 E. Should any of the disclosures provided for in this section
2 require more than casual or incidental staff time, the Commission
3 shall charge the cost of such staff time to the party requesting the
4 information.

5 F. It is further provided that the provisions of this section
6 shall be strictly interpreted and shall not be construed as
7 permitting the disclosure of any other information contained in the
8 records and files of the Commission.

9 SECTION 11. REPEALER 40 O.S. 2011, Sections 2-900, 2-
10 901, 2-902, 2-903, 2-904, 2-905, 2-906, 2-907, 2-908, 2-909 and 2-
11 910, are hereby repealed.

12 SECTION 12. This act shall become effective November 1, 2014.

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