

SENATE FLOOR VERSION

April 2, 2014

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
4 HOUSE BILL NO. 2676

By: Walker, Matthews and Hoskin
of the House

and

Holt of the Senate

[records of the Department of Public Safety - certain records not confidential - Oklahoma Open Records Act - public inspection - effective date]

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

SECTION 1. AMENDATORY 47 O.S. 2011, Section 2-110, as

15 last amended by Section 24, Chapter 15, O.S.L. 2013 (47 O.S. Supp.
16 2013, Section 2-110), is amended to read as follows:

17 Section 2-110. A. Officers and employees of the Department of
18 Public Safety designated by the Commissioner, for the purpose of
19 administering the motor vehicle laws, are authorized to administer
20 oaths and acknowledge signatures and shall do so without fee.

21 B. The Commissioner and such officers of the Department as the
22 Commissioner may designate are hereby authorized to prepare under
23 the seal of the Department and deliver upon request a certified copy
24 of any record of the Department, charging a fee of Three Dollars

1 (\$3.00) for each record so certified, and every such certified copy
2 shall be admissible in any proceeding in any court in like manner as
3 the original thereof. A certification fee shall be charged:

4 1. Only if the person requesting the record specifically
5 requests that the record be certified; and

6 2. In addition to the copying and reproduction fees provided by
7 the Oklahoma Open Records Act or any other applicable law.

8 C. The Commissioner and any other officers of the Department as
9 the Commissioner may designate are hereby authorized to provide a
10 copy of any record required to be maintained by the Department at no
11 charge to any of the following government agencies when requested in
12 the performance of official governmental duties:

13 1. The driver license agency of any other state;

14 2. Any court, district attorney or municipal prosecutor in this
15 state or any other state;

16 3. Any law enforcement agency in this state or any other state
17 or any federal agency empowered by law to make arrests for public
18 offenses;

19 4. Any public school district in this state for purposes of
20 providing the Motor Vehicle Report of a currently employed school
21 bus driver or person making application for employment as a school
22 bus driver;

23 5. The Department of Human Services for the purpose of
24 providing the Motor Vehicle Report to ascertain the suitability of

1 any person being considered by the Department of Human Services for
2 placement of a child in foster care or for adoption of the child;

3 6. The Office of Juvenile Affairs for the purpose of providing
4 the Motor Vehicle Report to ascertain the suitability of any person
5 being considered by the Office of Juvenile Affairs for placement of
6 a child in foster care;

7 7. Any nonprofit provider exempt from federal income tax
8 pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986
9 and contracted by the Developmental Disabilities Services Division
10 of the Oklahoma Department of Human Services; or

11 8. Any state agency in this state.

12 D. Any record required to be maintained by the Department may
13 be released to any other entity free of charge when the release of
14 the record would be for the benefit of the public, as determined by
15 the Commissioner or a designee of the Commissioner.

16 E. The following records shall be provided by the Department to
17 any authorized recipient, pursuant to the provisions of the Driver's
18 Privacy Protection Act, 18 United States Code, Sections 2721 through
19 2725, upon payment of the appropriate fees for the records:

20 1. A Motor Vehicle Report, as defined in Section 6-117 of this
21 title; and

22 2. A copy of any driving record related to the Motor Vehicle
23 Report.

1 F. 1. The provisions of subsections B, D, and E of this
2 section and the Oklahoma Open Records Act shall not apply to the
3 release of personal information from any driving record of any
4 person. Such personal information shall be confidential except as
5 provided for in this subsection or in the provisions of the Driver's
6 Privacy Protection Act, 18 United States Code, Sections 2721 through
7 2725. Upon written request to the Commissioner of Public Safety by
8 a law enforcement agency or another state's or country's driver
9 licensing agency for personal information on a specific individual,
10 as named or otherwise identified in the written request, to be used
11 in the official capacity of the agency, the Commissioner may release
12 such personal information to the agency pursuant to the provisions
13 of the Driver's Privacy Protection Act, 18 United States Code,
14 Sections 2721 through 2725. Provided, the provisions of this
15 subsection or any other provision of this title shall not be
16 construed to keep audio or video recordings of the Department of
17 Public Safety confidential.

18 2. For the purposes of this subsection, "personal information"
19 means information which identifies a person, including but not
20 limited to a photograph or image in computerized format of the
21 person, fingerprint image in computerized format, signature or
22 signature in computerized format, social security number, residence
23 address, mailing address, and medical or disability information.

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1 SECTION 2. AMENDATORY 51 O.S. 2011, Section 24A.3, is
2 amended to read as follows:

3 Section 24A.3. As used in ~~this act~~ the Oklahoma Open Records
4 Act:

5 1. "Record" means all documents, including, but not limited to,
6 any book, paper, photograph, microfilm, data files created by or
7 used with computer software, computer tape, disk, record, sound
8 recording, film recording, video record or other material regardless
9 of physical form or characteristic, created by, received by, under
10 the authority of, or coming into the custody, control or possession
11 of public officials, public bodies, or their representatives in
12 connection with the transaction of public business, the expenditure
13 of public funds or the administering of public property. "Record"
14 does not mean:

15 a. computer software,
16 b. nongovernment personal effects,
17 c. unless public disclosure is required by other laws or
18 regulations, vehicle movement records of the Oklahoma
19 Transportation Authority obtained in connection with
20 the Authority's electronic toll collection system,
21 d. personal financial information, credit reports or
22 other financial data obtained by or submitted to a
23 public body for the purpose of evaluating credit
24 worthiness, obtaining a license, permit, or for the

purpose of becoming qualified to contract with a public body,

- e. any digital audio/video recordings of the toll collection and safeguarding activities of the Oklahoma Transportation Authority,
- f. any personal information provided by a guest at any facility owned or operated by the Oklahoma Tourism and Recreation Department or the Board of Trustees of the Quartz Mountain Arts and Conference Center and Nature Park to obtain any service at the facility or by a purchaser of a product sold by or through the Oklahoma Tourism and Recreation Department or the Quartz Mountain Arts and Conference Center and Nature Park,
- g. a Department of Defense Form 214 (DD Form 214) filed with a county clerk, including any DD Form 214 filed before ~~the effective date of this act~~ July 1, 2002, or
- h. except as provided for in Section 2-110 of Title 47 of the Oklahoma Statutes,
 - (1) any record in connection with a Motor Vehicle Report issued by the Department of Public Safety, as prescribed in Section 6-117 of Title 47 of the Oklahoma Statutes, or
 - (2) personal information within driver records, as defined by the Driver's Privacy Protection Act,

18 United States Code, Sections 2721 through
2725, which are stored and maintained by the
Department of Public Safety,~~or~~

(3) ~~audio or video recordings of the Department of Public Safety;~~

6 2. "Public body" shall include, but not be limited to, any
7 office, department, board, bureau, commission, agency, trusteeship,
8 authority, council, committee, trust or any entity created by a
9 trust, county, city, village, town, township, district, school
10 district, fair board, court, executive office, advisory group, task
11 force, study group, or any subdivision thereof, supported in whole
12 or in part by public funds or entrusted with the expenditure of
13 public funds or administering or operating public property, and all
14 committees, or subcommittees thereof. Except for the records
15 required by Section 24A.4 of this title, "public body" does not mean
16 judges, justices, the Council on Judicial Complaints, the
17 Legislature, or legislators;

18 3. "Public office" means the physical location where public
19 bodies conduct business or keep records;

20 4. "Public official" means any official or employee of any
21 public body as defined herein; and

22 5. "Law enforcement agency" means any public body charged with
23 enforcing state or local criminal laws and initiating criminal
24 prosecutions, including, but not limited to, police departments,

1 county sheriffs, the Department of Public Safety, the Oklahoma State
2 Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic
3 Beverage Laws Enforcement Commission, and the Oklahoma State Bureau
4 of Investigation.

5 SECTION 3. AMENDATORY 51 O.S. 2011, Section 24A.8, is
6 amended to read as follows:

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

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

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

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

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

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

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

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

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

10 9. Audio and video recordings from law enforcement vehicles and
11 officers; provided, the law enforcement agency may, before releasing
12 any audio or video recording, redact or obscure specific portions of
13 the recording which depict the death of a person or a dead body,
14 depict any person who is nude or identify minors under the age of
15 sixteen (16) years. Provided further, law enforcement agencies may
16 redact or obscure specific portions of audio and video recordings
17 which reveal the identity of law enforcement officers who become
18 subject to internal investigation by the law enforcement agency
19 until the law enforcement agency concludes the investigation. At
20 the conclusion of the investigation and disciplinary process, the
21 unedited audio and video recordings shall be available for public
22 inspection and copying. The unedited audio and video recordings
23 shall be available for public inspection and copying before the
24 conclusion of the investigation and disciplinary process if the

1 investigation and disciplinary process lasts for an unreasonable
2 amount of time.

3 B. Except for the records listed in subsection A of this
4 section and those made open by other state or local laws, law
5 enforcement agencies may deny access to law enforcement records
6 except where a court finds that the public interest or the interest
7 of an individual outweighs the reason for denial.

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

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

18 E. The Council on Law Enforcement Education and Training
19 (C.L.E.E.T.) shall keep confidential all records it maintains
20 pursuant to Section 3311 of Title 70 of the Oklahoma Statutes and
21 deny release of records relating to any employed or certified full-
22 time officer, reserve officer, retired officer or other person;
23 teacher lesson plans, tests and other teaching materials; and

24

1 personal communications concerning individual students except under
2 the following circumstances:

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

5 2. As may be required to perform the duties imposed by Section
6 3311 of Title 70 of the Oklahoma Statutes;

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

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

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

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

16 F. The Department of Public Safety shall keep confidential:

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

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

23 b. policies, procedures, and operations, any of which are
24 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

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

12 SECTION 4. This act shall become effective November 1, 2014.

13 COMMITTEE REPORT BY: COMMITTEE ON RULES
April 2, 2014 - DO PASS AS AMENDED