

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1361

By: Griffith

COMMITTEE SUBSTITUTE

An Act relating to records of the Department of Public Safety; amending 51 O.S. 2011, Sections 24A.5 and 24A.8, as amended by Section 3, Chapter 266, O.S.L. 2014 (51 O.S. Supp. 2014, Section 24A.8), which relate to the Oklahoma Open Records Act; clarifying procedures for reproducing records; authorizing the denial of requests under certain circumstances; allowing for the redaction of recordings that depict certain information; and providing an effective date.

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

SECTION 1. AMENDATORY 51 O.S. 2011, Section 24A.5, is amended to read as follows:

Section 24A.5 All records of public bodies and public officials shall be open to any person for inspection, copying, or mechanical reproduction during regular business hours; provided:

1. The Oklahoma Open Records Act, Sections 24A.1 through 24A.28 of this title, does not apply to records specifically required by law to be kept confidential including:

- a. records protected by a state evidentiary privilege such as the attorney-client privilege, the work product immunity from discovery and the identity of informer privileges,
- b. records of what transpired during meetings of a public body lawfully closed to the public such as executive sessions authorized under the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes,
- c. personal information within driver records as defined by the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725, or
- d. information in the files of the Board of Medicolegal Investigations obtained pursuant to Sections 940 and 941 of Title 63 of the Oklahoma Statutes that may be hearsay, preliminary unsubstantiated investigation-related findings, or confidential medical information.

2. Any reasonably segregable portion of a record containing exempt material shall be provided after deletion of the exempt portions; provided however, the Department of Public Safety shall not be required to assemble for the requesting person specific information, in any format, from driving records relating to any person whose name and date of birth or whose driver license number is not furnished by the requesting person.

1 The Oklahoma State Bureau of Investigation shall not be required to
2 assemble for the requesting person any criminal history records
3 relating to persons whose names, dates of birth, and other
4 identifying information required by the Oklahoma State Bureau of
5 Investigation pursuant to administrative rule are not furnished by
6 the requesting person.

7 3. Any request for a record which contains individual records
8 of persons, and the cost of copying, reproducing or certifying each
9 individual record is otherwise prescribed by state law, the cost may
10 be assessed for each individual record, or portion thereof requested
11 as prescribed by state law. Otherwise, a public body may charge a
12 fee only for recovery of the reasonable, ~~direct~~ costs of ~~record~~
13 copying, redacting or ~~mechanical~~ reproduction. Notwithstanding any
14 state or local provision to the contrary, in no instance shall the
15 record copying fee exceed twenty-five cents (\$0.25) per page for
16 records having the dimensions of eight and one-half (8 1/2) by
17 fourteen (14) inches or smaller, or a maximum of One Dollar (\$1.00)
18 per copied page for a certified copy. A public body shall be
19 allowed a reasonable time to locate, redact and provide any such
20 records. However, if the request:

- 21 a. is solely for commercial purpose, or
- 22 b. would clearly cause ~~excessive~~ disruption of the
23 essential functions of the public body,

1 then the public body may charge a reasonable fee to recover the
2 ~~direct~~ cost of record search ~~and, redaction or~~ copying; however,
3 publication in a newspaper or broadcast by news media for news
4 purposes shall not constitute a resale or use of a record for trade
5 or commercial purpose and charges for providing copies of electronic
6 data to the news media for a news purpose shall not exceed the
7 direct cost of making the copy. ~~The~~ A reasonable fee may be charged
8 by the ~~Department of Public Safety~~ public body for preparing a copy
9 in a computerized format of a law enforcement agency record ~~of the~~
10 ~~Department shall not exceed the direct cost of making the copy~~
11 ~~unless the fee for the record is otherwise set by law.~~

12 Any public body establishing fees under this act shall post a
13 written schedule of the fees at its principal office and with the
14 county clerk.

15 In no case shall a search fee be charged when the release of
16 records is in the public interest, including, but not limited to,
17 release to the news media, scholars, authors and taxpayers seeking
18 to determine whether those entrusted with the affairs of the
19 government are honestly, faithfully, and competently performing
20 their duties as public servants, provided such requests would not
21 clearly cause excessive disruption of the essential functions of the
22 public body.

1 The fees shall not be used for the purpose of discouraging
2 requests for information or as obstacles to disclosure of requested
3 information.

4 4. The land description tract index of all recorded instruments
5 concerning real property required to be kept by the county clerk of
6 any county shall be available for inspection or copying in
7 accordance with the provisions of the Oklahoma Open Records Act;
8 provided, however, the index shall not be copied or mechanically
9 reproduced for the purpose of sale of the information.

10 5. A public body must provide prompt, reasonable access to its
11 records but may establish reasonable procedures which protect the
12 integrity and organization of its records and to prevent excessive
13 disruptions of its essential functions.

14 6. A public body shall designate certain persons who are
15 authorized to release records of the public body for inspection,
16 copying, or mechanical reproduction. At least one person shall be
17 available at all times to release records during the regular
18 business hours of the public body.

19 7. Any request that would clearly cause excessive disruption of
20 the essential function of the public body may be denied. If the
21 public body chooses to comply with the request, the public body may
22 require payment in advance of some or all of the costs prior to
23 production of the records and have a reasonable amount of time to
24 comply with the request.

1 SECTION 2. AMENDATORY 51 O.S. 2011, Section 24A.8, as
2 amended by Section 3, Chapter 266, O.S.L. 2014 (51 O.S. Supp. 2014,
3 Section 24A.8), is amended to read as follows:

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

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

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

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

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

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

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

21 7. A crime summary, including an agency summary of crimes
22 reported and public calls for service by classification or nature
23 and number;
24

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

7 9. Audio and video recordings of investigative detentions,
8 traffic stops or custodial arrests from recording equipment attached
9 to law enforcement vehicles and/or on the person of a law
10 enforcement officer; provided, the law enforcement agency may,
11 before releasing any audio or video recording, redact or obscure
12 specific portions of the recording which depict:

- 13 a. the death of a person or a dead body, ~~depict~~
- 14 b. any person who is nude ~~or identify,~~
- 15 c. ~~minors under the age of sixteen (16) years. Provided~~
16 ~~further, law enforcement agencies may redact or~~
17 ~~obscure specific portions of audio and video~~
18 ~~recordings which reveal~~ unless expressly made public
19 pursuant to Title 10A of the Oklahoma Statutes,
- 20 d. any information specifically required by law to be
21 kept confidential,
- 22 e. any medical information pertaining to a diagnosis,
23 medication, treatment or transport of a person to any
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1 hospital, mental health facility, drug or alcohol
2 treatment facility,

3 f. any information that could reasonably be expected to
4 constitute an unwarranted invasion of personal privacy
5 including, but not limited to, intimate matters,
6 sexual details or domestic violence,

7 g. any information that identifies a person who provides
8 confidential information to a law enforcement agency
9 where disclosure of the identity of the person could
10 reasonably be expected to endanger the life or
11 physical safety of the person,

12 h. any personally identifiable information or sensitive
13 data of persons not arrested to include, but not be
14 limited to, first and last name, government-issued
15 identification number, date of birth, financial
16 numbers or other data that could link an account to a
17 specific person,

18 i. any information on a suspect not placed into custodial
19 arrest or issued a citation,

20 j. opinions of law enforcement personnel concerning guilt
21 or innocence, quality of evidence or possible
22 motivations,

23 k. gang involvement, association or affiliation,
24

1 l. any information related to the detection,
2 investigation or prosecution of a crime where the
3 release of the information may interfere with the
4 investigation or prosecution of the crime,

5 m. the identity of law enforcement officers who become
6 subject to internal investigation by the law
7 enforcement agency until the law enforcement agency
8 concludes the investigation. At the conclusion of the
9 investigation and disciplinary process, the unedited
10 audio and video recordings shall be available for
11 public inspection and copying. The unedited audio and
12 video recordings shall be available for public
13 inspection and copying before the conclusion of the
14 investigation and disciplinary process if the
15 investigation and disciplinary process lasts for an
16 unreasonable amount of time, or

17 n. any information furnished by a confidential informant.

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

23 C. Nothing contained in this section imposes any new
24 recordkeeping requirements. Law enforcement records shall be kept

1 for as long as is now or may hereafter be specified by law. Absent
2 a legal requirement for the keeping of a law enforcement record for
3 a specific time period, law enforcement agencies shall maintain
4 their records for so long as needed for administrative purposes.

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

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

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

19 2. As may be required to perform the duties imposed by Section
20 3311 of Title 70 of the Oklahoma Statutes;

21 3. To provide to any peace officer copies of the records of
22 that peace officer upon submitting a written request;
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1 4. To provide, upon written request, to any law enforcement
2 agency conducting an official investigation, copies of the records
3 of any peace officer who is the subject of such investigation;

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

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

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

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

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

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

17 c. the following information from radio logs:

18 (1) telephone numbers,

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

21 (3) personal information which is contrary to the
22 provisions of the Driver's Privacy Protection
23 Act, 18 United States Code, Sections 2721 through
24 2725; and

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

4 SECTION 3. This act shall become effective November 1, 2015.

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