

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

HOUSE BILL 1361

By: Griffith

AS INTRODUCED

An Act relating to records of the Department of Public Safety; amending 47 O.S. 2011, Section 2-110, as last amended by Section 1, Chapter 266, O.S.L. 2014 (47 O.S. Supp. 2014, Section 2-110), which relates to the Department of Public Safety; deleting certain construction; amending 51 O.S. 2011, Section 24A.3, as amended by Section 2, Chapter 266, O.S.L. 2014, 24A.8, as amended by Section 3, Chapter 266, O.S.L. 2014 and 24.12 (51 O.S. Supp. 2014, Sections 24A.3 and 24A.8), which relate to the Oklahoma Open Records Act; modifying definition; deleting requirement that certain recordings of law enforcement agencies be available for public inspection; permitting certain records to be confidential until final disposition of case; and providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 2011, Section 2-110, as last amended by Section 1, Chapter 266, O.S.L. 2014 (47 O.S. Supp. 2014, Section 2-110), is amended to read as follows:

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

1 B. The Commissioner and such officers of the Department as the
2 Commissioner may designate are hereby authorized to prepare under
3 the seal of the Department and deliver upon request a certified copy
4 of any record of the Department, charging a fee of Three Dollars
5 (\$3.00) for each record so certified, and every such certified copy
6 shall be admissible in any proceeding in any court in like manner as
7 the original thereof. A certification fee shall be charged:

8 1. Only if the person requesting the record specifically
9 requests that the record be certified; and

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

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

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

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

20 3. Any law enforcement agency in this state or any other state
21 or any federal agency empowered by law to make arrests for public
22 offenses;

23 4. Any public school district in this state for purposes of
24 providing the Motor Vehicle Report of a currently employed school

1 bus driver or person making application for employment as a school
2 bus driver;

3 5. The Department of Human Services for the purpose of
4 providing the Motor Vehicle Report to ascertain the suitability of
5 any person being considered by the Department of Human Services for
6 placement of a child in foster care or for adoption of the child;

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

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

15 8. Any state agency in this state.

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

20 E. The following records shall be provided by the Department to
21 any authorized recipient, pursuant to the provisions of the Driver's
22 Privacy Protection Act, 18 United States Code, Sections 2721 through
23 2725, upon payment of the appropriate fees for the records:
24

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

3 2. A copy of any driving record related to the Motor Vehicle
4 Report.

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

23 2. For the purposes of this subsection, "personal information"
24 means information which identifies a person, including but not

1 limited to a photograph or image in computerized format of the
2 person, fingerprint image in computerized format, signature or
3 signature in computerized format, social security number, residence
4 address, mailing address, and medical or disability information.

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

8 Section 24A.3 As used in the Oklahoma Open Records Act:

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

- 19 a. computer software,
- 20 b. nongovernment personal effects,
- 21 c. unless public disclosure is required by other laws or
22 regulations, vehicle movement records of the Oklahoma
23 Transportation Authority obtained in connection with
24 the Authority's electronic toll collection system,

- 1 d. personal financial information, credit reports or
2 other financial data obtained by or submitted to a
3 public body for the purpose of evaluating credit
4 worthiness, obtaining a license, permit, or for the
5 purpose of becoming qualified to contract with a
6 public body,
- 7 e. any digital audio/video recordings of the toll
8 collection and safeguarding activities of the Oklahoma
9 Transportation Authority,
- 10 f. any personal information provided by a guest at any
11 facility owned or operated by the Oklahoma Tourism and
12 Recreation Department or the Board of Trustees of the
13 Quartz Mountain Arts and Conference Center and Nature
14 Park to obtain any service at the facility or by a
15 purchaser of a product sold by or through the Oklahoma
16 Tourism and Recreation Department or the Quartz
17 Mountain Arts and Conference Center and Nature Park,
- 18 g. a Department of Defense Form 214 (DD Form 214) filed
19 with a county clerk, including any DD Form 214 filed
20 before July 1, 2002, or
- 21 h. except as provided for in Section 2-110 of Title 47 of
22 the Oklahoma Statutes,
23 (1) any record in connection with a Motor Vehicle
24 Report issued by the Department of Public Safety,

1 as prescribed in Section 6-117 of Title 47 of the
2 Oklahoma Statutes, ~~or~~

3 (2) personal information within driver records, as
4 defined by the Driver's Privacy Protection Act,
5 18 United States Code, Sections 2721 through
6 2725, which are stored and maintained by the
7 Department of Public Safety, or

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

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

22 3. "Public office" means the physical location where public
23 bodies conduct business or keep records;
24

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

3 5. "Law enforcement agency" means any public body charged with
4 enforcing state or local criminal laws and initiating criminal
5 prosecutions, including, but not limited to, police departments,
6 county sheriffs, the Department of Public Safety, the Oklahoma State
7 Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic
8 Beverage Laws Enforcement Commission, and the Oklahoma State Bureau
9 of Investigation.

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

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

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

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

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

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

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

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

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

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

15 ~~9. Audio and video recordings from recording equipment attached
16 to law enforcement vehicles and/or on the person of a law
17 enforcement officer; provided, the law enforcement agency may,
18 before releasing any audio or video recording, redact or obscure
19 specific portions of the recording which depict the death of a
20 person or a dead body, depict any person who is nude or identify
21 minors under the age of sixteen (16) years. Provided further, law
22 enforcement agencies may redact or obscure specific portions of
23 audio and video recordings which reveal the identity of law
24 enforcement officers who become subject to internal investigation by~~

1 ~~the law enforcement agency until the law enforcement agency~~
2 ~~concludes the investigation. At the conclusion of the investigation~~
3 ~~and disciplinary process, the unedited audio and video recordings~~
4 ~~shall be available for public inspection and copying. The unedited~~
5 ~~audio and video recordings shall be available for public inspection~~
6 ~~and copying before the conclusion of the investigation and~~
7 ~~disciplinary process if the investigation and disciplinary process~~
8 ~~lasts for an unreasonable amount of time.~~

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

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

20 D. Registration files maintained by the Department of
21 Corrections pursuant to the provisions of the Sex Offenders
22 Registration Act shall be made available for public inspection in a
23 manner to be determined by the Department.
24

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

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

11 2. As may be required to perform the duties imposed by Section
12 3311 of Title 70 of the Oklahoma Statutes;

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

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

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

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

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

23 1. All records it maintains pursuant to its authority under
24 Title 47 of the Oklahoma Statutes relating to the Oklahoma Highway

1 Patrol Division, the Communications Division, and other divisions of
2 the Department relating to:

- 3 a. training, lesson plans, teaching materials, tests, and
4 test results,
- 5 b. policies, procedures, and operations, any of which are
6 of a tactical nature, and
- 7 c. the following information from radio logs:
 - 8 (1) telephone numbers,
 - 9 (2) addresses other than the location of incidents to
10 which officers are dispatched, and
 - 11 (3) personal information which is contrary to the
12 provisions of the Driver's Privacy Protection
13 Act, 18 United States Code, Sections 2721 through
14 2725; and

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

18 SECTION 4. AMENDATORY 51 O.S. 2011, Section 24A.12, is
19 amended to read as follows:

20 Section 24A.12 Except as otherwise provided by state or local
21 law, the Attorney General of the State of Oklahoma and agency
22 attorneys authorized by law, the office of the district attorney of
23 any county of the state, and the office of the municipal attorney of
24 any municipality may keep its litigation files and investigatory

1 reports confidential. Records as defined in Section 24A.3 of this
2 title that would be otherwise available to the public but which are
3 to be used as evidence in a pending trial by one of the attorneys or
4 agencies listed in this section may be withheld from public
5 dissemination until the final disposition of the action in which
6 such records are to be used as evidence. Such records used as
7 evidence shall be available upon request under the Oklahoma Open
8 Records Act thirty (30) days following final disposition of the
9 case, cause or matter in which the record was withheld for use as
10 evidence.

11 SECTION 5. This act shall become effective November 1, 2015.

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