

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

HOUSE BILL 1597

By: Calvey

AS INTRODUCED

An Act relating to labor; amending 40 O.S. 2011, Section 4-508, as last amended by Section 19, Chapter 249, O.S.L. 2015 (40 O.S. Supp. 2016, Section 4-508), which relates to the Employment Security Act of 1980; modifying issuance of subpoenas; and providing an effective date.

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

SECTION 1. AMENDATORY 40 O.S. 2011, Section 4-508, as last amended by Section 19, Chapter 249, O.S.L. 2015 (40 O.S. Supp. 2016, Section 4-508), is amended to read as follows:

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

A. Except as otherwise provided by law, information obtained from any employing unit or individual pursuant to the administration of the Employment Security Act of 1980, any workforce system program administered or monitored by the Oklahoma Employment Security Commission, and determinations as to the benefit rights of any individual shall be kept confidential and shall not be disclosed or be open to public inspection in any manner revealing the

1 individual's or employing unit's identity. Any claimant or employer
2 or agent of such person as authorized in writing shall be supplied
3 with information from the records of the Oklahoma Employment
4 Security Commission, to the extent necessary for the proper
5 presentation of the claim or complaint in any proceeding under the
6 Employment Security Act of 1980, with respect thereto.

7 B. Upon receipt of written request by any employer who
8 maintains a Supplemental Unemployment Benefit (SUB) Plan, the
9 Commission or its designated representative may release to such
10 employer information regarding weekly benefit amounts paid its
11 workers during a specified temporary layoff period, provided such
12 Supplemental Unemployment Benefit (SUB) Plan requires benefit
13 payment information before Supplemental Unemployment Benefits can be
14 paid to such workers. Any information disclosed under this
15 provision shall be utilized solely for the purpose outlined herein
16 and shall be held strictly confidential by the employer.

17 C. The provisions of this section shall not prevent the
18 Commission from disclosing the following information and no
19 liability whatsoever, civil or criminal, shall attach to any member
20 of the Commission or any employee thereof for any error or omission
21 in the disclosure of such information:

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

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

5 3. The Oklahoma Department of Commerce may have access to data
6 obtained pursuant to the Employment Security Act of 1980 pursuant to
7 rules promulgated by the Commission. The information obtained shall
8 be held confidential by the Department and any of its agents and
9 shall not be disclosed or be open to public inspection. The
10 Oklahoma Department of Commerce, however, may release aggregated
11 data, either by industry or county, provided that such aggregation
12 meets disclosure requirements of the Commission;

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

15 5. The disclosing of information or evidence to the Attorney
16 General or any district attorney when the information or evidence is
17 to be used by the officials or other parties to the proceedings to
18 prosecute or defend allegations of violations of the Employment
19 Security Act of 1980. The information disclosed to the Attorney
20 General or any district attorney shall be kept confidential by them
21 and not be disclosed except when presented to a court in a
22 prosecution of a violation of Section 1-101 et seq. of this title,
23 and a violation by the Attorney General or district attorney by
24 otherwise releasing the information shall be a felony;

1 6. The furnishing, at the discretion of the Commission, of any
2 information disclosed by the records or files to any official person
3 or body of this state, any other state or of the United States who
4 is concerned with the administration of assessment of any similar
5 tax in this state, any other state or the United States;

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

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

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

18 10. The release to employees of the Attorney General, the State
19 Insurance Fund, the Department of Labor, the Workers' Compensation
20 Commission, and the Insurance Department for use in investigation of
21 workers' compensation fraud;

22 11. The release to employees of any Oklahoma state, Oklahoma
23 county or Oklahoma municipal law enforcement agency for use in
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1 criminal investigations and the location of missing persons or
2 fugitives from justice;

3 12. The release to employees of the Center of International
4 Trade, Oklahoma State University, of information required for the
5 development of International Trade for employers doing business in
6 the State of Oklahoma;

7 13. The release to employees of the Oklahoma State Regents for
8 Higher Education of information required for use in the default
9 prevention efforts and/or collection of defaulted student loans
10 guaranteed by the Oklahoma Guaranteed Student Loan Program. Any
11 information disclosed under this provision shall be utilized solely
12 for the purpose outlined herein and shall be held strictly
13 confidential by the Oklahoma State Regents for Higher Education;

14 14. The release to employees of the Center for Economic and
15 Management Research of the University of Oklahoma, the Center for
16 Economic and Business Development at Southwestern Oklahoma State
17 University, or a center of economic and business research or
18 development at a comprehensive or regional higher education
19 institution within The Oklahoma State System of Higher Education of
20 information required to identify economic trends. The information
21 obtained shall be kept confidential by the higher education
22 institution and shall not be disclosed or be open to public
23 inspection. The higher education institution may release aggregated
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1 data, provided that such aggregation meets disclosure requirements
2 of the Commission;

3 15. The release to employees of the Office of Management and
4 Enterprise Services of information required to identify economic
5 trends. The information obtained shall be kept confidential by the
6 Office of Management and Enterprise Services and shall not be
7 disclosed or be open to public inspection. The Office of Management
8 and Enterprise Services may release aggregate data, provided that
9 such aggregation meets disclosure requirements of the Commission;

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

21 17. The release to employees of the Attorney General, the
22 Oklahoma State Bureau of Investigation, and the Insurance Department
23 for use in the investigation of insurance fraud and health care
24 fraud;

1 18. The release to employees of public housing agencies for
2 purposes of determining eligibility pursuant to 42 U.S.C., Section
3 503(i);

4 19. The release of wage and benefit claim information, at the
5 discretion of the Commission, to an agency of this state or its
6 political subdivisions, or any nonprofit corporation that operates a
7 program or activity designated as a partner in the Workforce
8 Investment Act One-Stop delivery system pursuant to 29 U.S.C.A.,
9 Section 2481(b), based on a showing of need made to the Commission
10 and after an agreement concerning the release of information is
11 entered into with the entity receiving the information;

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

14 21. The release of information to the Bureau of the Census of
15 the U.S. Department of Commerce for the purpose of economic and
16 statistical research;

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

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

1 24. The release of information to any state or federal law
2 enforcement authority when necessary in the investigation of any
3 crime in which the Commission is a victim. Information that is
4 confidential under this section shall be held confidential by the
5 law enforcement authority unless and until it is required for use in
6 court in the prosecution of a defendant in a criminal prosecution;

7 25. The release of information to vendors that contract with
8 the Oklahoma Employment Security Commission to provide for the
9 issuance of debit cards, to conduct electronic fund transfers, to
10 perform computer programming operations, or to perform computer
11 maintenance or replacement operations; provided the vendor agrees to
12 protect and safeguard the information it receives and to destroy the
13 information when no longer needed for the purposes set out in the
14 contract;

15 26. The release to employees of the Office of Juvenile Affairs
16 of information for use in assessing results and outcomes of clients
17 served as well as the effectiveness of state and local juvenile and
18 justice programs including prevention and treatment programs. The
19 information obtained shall be kept confidential by the Office of
20 Juvenile Affairs and shall not be disclosed or be open to public
21 inspection. The Office of Juvenile Affairs may release aggregated
22 data for programs or larger aggregate units, provided that the
23 aggregation meets disclosure requirements of the Oklahoma Employment
24 Security Commission; or

1 27. The release of information to vendors that contract with
2 the State of Oklahoma for the purpose of providing a public
3 electronic labor exchange system that will support the Oklahoma
4 Employment Security Commission's operation of an employment service
5 system to connect employers with job seekers and military veterans.
6 This labor exchange system would enhance the stability and security
7 of Oklahoma's economy as well as support the provision of veterans'
8 priority of service. The vendors may perform computer programming
9 operations, perform computer maintenance or replacement operations,
10 or host the electronic solution; provided each vendor agrees to
11 protect and safeguard all information received, that no information
12 shall be disclosed to any third party, that the use of the
13 information shall be restricted to the scope of the contract, and
14 that the vendor shall properly dispose of all information when no
15 longer needed for the purposes set out in the contract.

16 D. Subpoenas to compel disclosure of information made
17 confidential by this statute shall not be valid, except for
18 administrative:

19 1. Administrative subpoenas issued by federal, state, or local
20 governmental agencies that have been granted subpoena power by
21 statute or ordinance; or

22 2. Subpoenas issued pursuant to Section 2004.1 of Title 12 of
23 the Oklahoma Statutes by a judgement creditor.
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1 Confidential information maintained by the Commission can be
2 obtained by order of a court of record that authorizes the release
3 of the records in writing. All ~~administrative~~ subpoenas authorized
4 by this section or court orders for production of documents ~~must~~
5 shall provide a minimum of twenty (20) days from the date it is
6 served for the Commission to produce the documents. If the date on
7 which production of the documents is required is less than twenty
8 (20) days from the date of service, the subpoena or order shall be
9 considered void on its face as an undue burden or hardship on the
10 Commission. All ~~administrative~~ subpoenas authorized by this
11 section, court orders or notarized waivers of confidentiality
12 authorized by paragraph 2 of subsection C of this section shall be
13 presented with a request for records within ninety (90) days of the
14 date the document is issued or signed, and the document can only be
15 used one time to obtain records.

16 E. Should any of the disclosures provided for in this section
17 require more than casual or incidental staff time, the Commission
18 shall charge the cost of such staff time to the party requesting the
19 information.

20 F. It is further provided that the provisions of this section
21 shall be strictly interpreted and shall not be construed as
22 permitting the disclosure of any other information contained in the
23 records and files of the Commission.

SECTION 2. This act shall become effective November 1, 2017.

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