

1 **SENATE FLOOR VERSION**

2 February 25, 2020

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1802

By: Kidd of the Senate

and

Osburn of the House

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9 An Act relating to court records; amending 20 O.S.
10 2011, Sections 1005 and 1008, which relate to
11 destruction of court records and depositions;
12 modifying time periods for destruction of records of
13 certain cases; modifying requirements for storage of
14 certain records; authorizing payment of certain costs
15 from Court Clerk's Records Management and
16 Preservation Fund; modifying time periods for
17 destruction of depositions from certain cases; and
18 providing an effective date.

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

20 SECTION 1. AMENDATORY 20 O.S. 2011, Section 1005, is
21 amended to read as follows:

22 Section 1005. A. Unless there is an objection by the presiding
23 administrative judge or the chief judge of the district court, the
24 court clerk is authorized to dispose of the judicial records
enumerated in this subsection ~~by first offering all or part of the~~
~~records to the Archives and Records Division of the Oklahoma~~
~~Department of Libraries for preservation as historical research~~

1 ~~materials, and by destroying all those which are not accepted by the~~
2 ~~Division.~~ Nothing shall prohibit the presiding administrative judge
3 or the chief judge of the district court from entering an order for
4 the destruction of records prior to the time limits enumerated in
5 this subsection for good cause shown. In the record destruction
6 process, any officer may rely upon computerized lists or other
7 electronic data provided by the Administrative Office of the Courts
8 or its OCIS/OSCN system. For purposes of determining the time
9 periods in this chapter, the officer may disregard entries or
10 actions taken in the subject cases, such as accounting, internal
11 electronic data or other nonjudicial entries. The judicial records
12 subject to disposal or destruction shall be:

13 1. Domestic relations cases. This shall include, but not be
14 limited to, cases filed concerning divorce, separate maintenance,
15 annulment, reciprocal actions for enforcement of support, child
16 custody, domestic abuse, foreign judgments in domestic relations
17 cases, income assignments relating to an order of support,
18 paternity, appeal on administrative order relating to support or
19 paternity, habeas corpus relating to children, and other domestic-
20 related filings:

21 a. domestic relations cases that have been dismissed and
22 no pleading has been filed or any action taken in the
23 case for more than one (1) year, ~~and~~

1 b. all domestic relations cases in which a minor child is
2 involved after a twenty-year period has elapsed since
3 any pleading has been filed or any action taken in the
4 case, and

5 c. all domestic relations cases in which no minor child
6 is involved after a ten-year period has elapsed since
7 any pleading has been filed or any action taken in the
8 case;

9 2. Probate cases. This shall include, but not be limited to,
10 cases filed concerning the probating of estates, guardianships,
11 conservatorships, mental health, protective services to the elderly,
12 powers of attorney, and trusts:

13 a. probate cases that have been dismissed and no pleading
14 has been filed or any action taken in the case for
15 more than one (1) year, and

16 b. all probate cases after a twenty-year period has
17 elapsed since any pleading has been filed or any
18 action taken in the case;

19 3. Actions brought for money judgment only in which a dismissal
20 or release and satisfaction has been filed for more than one (1)
21 year;

22 4. Civil ~~(CJ and CS)~~ records of cases:
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- a. civil ~~(CJ and CS)~~ cases that have been dismissed and no pleading has been filed or any action taken in the case for more than one (1) year, and
- b. all other civil ~~(CJ and CS)~~ cases after a ten-year period has elapsed since any pleading has been filed or any action taken in the case;

5. Felony criminal records of unadjudicated cases and adjudicated cases:

- a. felony criminal cases that have been dismissed and no pleading or any action taken in the case for more than one (1) year,
- b. felony criminal records of adjudicated cases after a ten-year period has elapsed since any pleading has been filed or any action taken in the case, and
- c. felony criminal records of adjudicated cases, where the sentence imposed was death, life without parole, or life, after a fifty-year period has elapsed since any pleading has been filed or any action taken in the case;

6. Misdemeanor records of unadjudicated cases and adjudicated cases:

- a. misdemeanor cases that have been dismissed and no pleading or any action taken in the case for more than one (1) year,

1 b. misdemeanor records of adjudicated cases after a five-
2 year period has elapsed since any pleading has been
3 filed or any action taken in the case; ~~and~~

4 7. Juvenile cases. This shall include, but not be limited to,
5 cases filed concerning delinquents, children in need of supervision,
6 deprived children, children in need of treatment, children in need
7 of shelter, and other related juvenile filings:

8 a. juvenile cases that have been dismissed and no
9 pleading has been filed or any action taken in the
10 case for more than one (1) year, and

11 b. all juvenile cases after a ~~twenty-year~~ ten-year period
12 has elapsed since any pleading has been filed or any
13 action taken in the case; and

14 8. Protective orders:

15 a. protective order cases that have been dismissed and no
16 pleading has been filed or any action taken in the
17 case for more than one (1) year, and

18 b. protective order cases after a ten-year period has
19 elapsed since the protective order was issued.

20 B. The judicial records and the appearance docket books or
21 sheets on which they are entered, prior to their disposal or
22 destruction, shall be stored on at least two microfilm records,
23 optical ~~disks,~~ discs or other appropriate medium, ~~one of which shall~~
24 ~~be placed in the Archives and Records Division of the Oklahoma~~

1 ~~Department of Libraries or in a bank or other appropriate local~~
2 ~~depository and the other~~ shall be available for public use in the
3 court clerk's office. ~~The copy in the Department of Libraries or~~
4 ~~other depository shall be available for replacement in case of~~
5 ~~functional failure of the one available for public use.~~ The cost of
6 the storage medium and equipment for viewing and copying shall be
7 paid out of the court fund or the Court Clerk's Records Management
8 and Preservation Fund created pursuant to Section 31.3 of Title 28
9 of the Oklahoma Statutes, upon approval by the Chief Justice of the
10 Supreme Court. Records reproduced from microfilm, optical ~~disk~~
11 disc, and other media produced pursuant to the provisions of this
12 section shall be received in evidence and have the same legal
13 efficacy as the original.

14 C. Traffic cases. The court clerk of each district court shall
15 destroy the judicial records of traffic cases and the appearance
16 docket books or sheets on which they are entered after a five-year
17 period has elapsed since any pleading has been filed or any action
18 taken in the case, except in the case of a conviction for driving
19 under the influence of intoxicating liquor or any narcotic drug,
20 which records shall be destroyed after a ten-year period has elapsed
21 since any pleading has been filed or any action taken in the case.

22 D. Records of criminal property cases brought pursuant to
23 Section 1321 et seq. of Title 22 of the Oklahoma Statutes shall be
24 subject to disposal or destruction after a two-year period has

1 elapsed since any pleading has been filed or any action taken in the
2 case.

3 SECTION 2. AMENDATORY 20 O.S. 2011, Section 1008, is
4 amended to read as follows:

5 Section 1008. In each county of this state, the court clerk is
6 hereby authorized to destroy, from time to time, depositions taken
7 in all civil cases and domestic cases in which no minor child is
8 involved, except adoptions, after a ten-year period, and depositions
9 taken in domestic relations cases in which a minor child is involved
10 may be destroyed after a twenty-year period has elapsed since any
11 pleading has been filed or any action taken in the case.

12 SECTION 3. This act shall become effective November 1, 2020.

13 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
14 February 25, 2020 - DO PASS AS AMENDED
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