

1 **SENATE FLOOR VERSION**

2 February 26, 2019

3 SENATE BILL NO. 319

By: Dahm

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6  
7 An Act relating to asset forfeiture transparency;  
8 amending 51 O.S. 2011, Section 24A.8, as last amended  
9 by Section 2, Chapter 370, O.S.L. 2015 (51 O.S. Supp.  
10 2018, Section 24A.8), which relates to law  
11 enforcement records; making certain reports available  
12 for public inspection; amending 63 O.S. 2011, Section  
13 2-506, as last amended by Section 1, Chapter 225,  
14 O.S.L. 2016 (63 O.S. Supp. 2018, Section 2-506),  
15 which relates to seizure of property; requiring  
16 submission of certain report; making certain reports  
17 open to public; updating language; and providing an  
18 effective date.

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

20 SECTION 1. AMENDATORY 51 O.S. 2011, Section 24A.8, as  
21 last amended by Section 2, Chapter 370, O.S.L. 2015 (51 O.S. Supp.  
22 2018, Section 24A.8), is amended to read as follows:

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

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

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

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

6        4. Radio logs, including a chronological listing of the calls  
7 dispatched;

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

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

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

16       8. Jail registers, including jail blotter data or jail booking  
17 information recorded on persons at the time of incarceration showing  
18 the name of each prisoner with the date and cause of commitment, the  
19 authority committing the prisoner, whether committed for a criminal  
20 offense, a description of the prisoner, and the date or manner of  
21 discharge or escape of the prisoner;

22       9. Annual reports submitted pursuant to subsection T of Section  
23 2-506 of Title 63 of the Oklahoma Statutes;

1        10. Audio and video recordings from recording equipment

2 attached to law enforcement vehicles or associated audio recordings  
3 from recording equipment on the person of a law enforcement officer;  
4 provided, the law enforcement agency may, before releasing any audio  
5 or video recording provided for in this paragraph, redact or obscure  
6 specific portions of the recording which:

7            a. depict the death of a person or a dead body, unless  
8                    the death was effected by a law enforcement officer,

9            b. depict nudity,

10           c. would identify minors under the age of sixteen (16)  
11                    years or would undermine any requirement to keep  
12                    certain juvenile records confidential as provided for  
13                    in Title 10A of the Oklahoma Statutes,

14           d. depict acts of severe violence resulting in great  
15                    bodily injury, as defined in Section 11-904 of Title  
16                    47 of the Oklahoma Statutes, against persons that are  
17                    clearly visible, unless the act of severe violence was  
18                    effected by a law enforcement officer,

19           e. depict great bodily injury, as defined in Section 11-  
20                    904 of Title 47 of the Oklahoma Statutes, unless the  
21                    great bodily injury was effected by a law enforcement  
22                    officer,

23           f. include personal medical information that is not  
24                    already public,

- 1           g.    would undermine the assertion of a privilege provided  
2                in Section 1-109 or Section 3-428 of Title 43A of the  
3                Oklahoma Statutes for detention or transportation for  
4                mental health evaluation or treatment or drug or  
5                alcohol detoxification purposes,
- 6           h.    include personal information other than the name or  
7                license plate number of a person not arrested, cited,  
8                charged or issued a written warning.  Such personal  
9                information shall include any government-issued  
10              identification number, date of birth, address or  
11              financial information, or
- 12          i.    reveal the identity of law enforcement officers who  
13                have become subject to internal investigation by the  
14                law enforcement agency as a result of an event  
15                depicted in the recording.  The option to protect the  
16                identity of a law enforcement officer shall not be  
17                available to the law enforcement agency after the law  
18                enforcement agency has concluded the investigation and  
19                rendered a decision as to final disciplinary action.  
20                At such time when an investigation has concluded and  
21                the law enforcement agency has rendered its decision  
22                as to final disciplinary action, the portions of the  
23                recordings previously withheld as provided for in this  
24                subparagraph shall be available for public inspection

1 and copying. The audio and video recordings withheld  
2 as provided for in this subparagraph shall be  
3 available for public inspection and copying before the  
4 conclusion of the investigation if the investigation  
5 lasts for an unreasonable amount of time; and

6 ~~10.~~

7 11. a. Audio and video recordings from recording equipment  
8 attached to the person of a law enforcement officer  
9 that depict:

- 10 (1) the use of any physical force or violence by a  
11 law enforcement officer,  
12 (2) pursuits of any kind,  
13 (3) traffic stops,  
14 (4) any person being arrested, cited, charged or  
15 issued a written warning,  
16 (5) events that directly led to any person being  
17 arrested, cited, charged or receiving a written  
18 warning,  
19 (6) detentions of any length for the purpose of  
20 investigation,  
21 (7) any exercise of authority by a law enforcement  
22 officer that deprives a citizen of his or her  
23 liberty,  
24

- 1 (8) actions by a law enforcement officer that have  
2 become the cause of an investigation or charges  
3 being filed,  
4 (9) recordings in the public interest that may  
5 materially aid a determination of whether law  
6 enforcement officers are appropriately performing  
7 their duties as public servants, or  
8 (10) any contextual events occurring before or after  
9 the events depicted in divisions (1) through (9)  
10 of this subparagraph.

11 b. Notwithstanding the provisions of subparagraph a of  
12 this paragraph, the law enforcement agency may, before  
13 releasing any audio or video recording provided for in  
14 this paragraph, redact or obscure specific portions of  
15 the recording that:

- 16 (1) depict the death of a person or a dead body,  
17 unless the death was effected by a law  
18 enforcement officer,  
19 (2) depict nudity,  
20 (3) would identify minors under the age of sixteen  
21 (16) years or would undermine any requirement to  
22 keep certain juvenile records confidential as  
23 provided for in Title 10A of the Oklahoma  
24 Statutes,

- 1 (4) depict acts of severe violence resulting in great  
2 bodily injury, as defined in Section 11-904 of  
3 Title 47 of the Oklahoma Statutes, against  
4 persons that are clearly visible, unless the act  
5 of severe violence was effected by a law  
6 enforcement officer,
- 7 (5) depict great bodily injury, as defined in Section  
8 11-904 of Title 47 of the Oklahoma Statutes,  
9 unless the great bodily injury was effected by a  
10 law enforcement officer,
- 11 (6) include personal medical information that is not  
12 already public,
- 13 (7) undermine the assertion of a privilege as  
14 provided in Section 1-109 or Section 3-428 of  
15 Title 43A of the Oklahoma Statutes for detention  
16 or transportation for mental health evaluation or  
17 treatment or drug or alcohol detoxification  
18 purposes,
- 19 (8) identify alleged victims of sex crimes or  
20 domestic violence,
- 21 (9) identify any person who provides information to  
22 law enforcement or the information provided by  
23 that person when that person requests anonymity  
24 or where disclosure of the identity of the person

1 or the information provided could reasonably be  
2 expected to threaten or endanger the physical  
3 safety or property of the person or the physical  
4 safety or property of others,

5 (10) undermine the assertion of a privilege to keep  
6 the identity of an informer confidential as  
7 provided for in Section 2510 of Title 12 of the  
8 Oklahoma Statutes,

9 (11) include personal information other than the name  
10 or license plate number of a person not  
11 officially arrested, cited, charged or issued a  
12 written warning. Such personal information shall  
13 include any government-issued identification  
14 number, date of birth, address or financial  
15 information,

16 (12) include information that would materially  
17 compromise an ongoing criminal investigation or  
18 ongoing criminal prosecution, provided that:

19 (a) ten (10) days following the formal  
20 arraignment or initial appearance, whichever  
21 occurs first, of a person charged in the  
22 case in question, the recording shall be  
23 made available for public inspection and  
24 copying with no redaction of the portions



1 that were temporarily withheld by reliance  
2 on this division. Provided, before  
3 potential release of a recording as provided  
4 for in this subdivision, the prosecutor or  
5 legal representative of the person charged  
6 may request from the appropriate district  
7 court an extension of time during which the  
8 recording may be withheld under the  
9 provisions of this division. When a request  
10 for an extension of time has been filed with  
11 the court, the recording in question may be  
12 withheld until the court has issued a  
13 ruling. Such requests for an extension of  
14 the time during which the recording may be  
15 withheld may be made on the grounds that  
16 release of the recording will materially  
17 compromise an ongoing criminal investigation  
18 or criminal prosecution or on the grounds  
19 that release of the recording will  
20 materially compromise the right of an  
21 accused to a fair trial that has yet to  
22 begin. Courts considering such requests  
23 shall conduct a hearing and consider whether  
24 the interests of the public outweigh the

1 interests asserted by the parties. In  
2 response to such requests, the court shall  
3 order that the recording be made available  
4 for public inspection and copying with no  
5 redaction of the portions that were  
6 temporarily withheld by reliance on this  
7 division or order an extension of time  
8 during which the recording may be withheld  
9 under the provisions of this division.  
10 Provided further, each such time extension  
11 shall only be ordered by the court for an  
12 additional six-month period of time or less  
13 and cumulative time extensions shall not add  
14 up to more than eighteen (18) months, or  
15 (b) in the event that one hundred twenty (120)  
16 days expire from the date of the events  
17 depicted in the recording without any person  
18 being criminally charged in the case in  
19 question and release of a recording or  
20 portions of a recording have been denied on  
21 the grounds provided for in this division,  
22 an appeal of such denial may be made to the  
23 appropriate district court. In situations  
24 where one hundred twenty (120) days have

1 expired since the creation of the recording,  
2 criminal charges have not been filed against  
3 a person and the recording is being withheld  
4 on the grounds provided for in this  
5 division, courts considering appeals to the  
6 use of the provisions of this division for  
7 temporarily withholding a recording shall  
8 conduct a hearing and consider whether the  
9 interests of the public outweigh the  
10 interests of the parties protected by this  
11 division. In response to such appeals, the  
12 district court shall order that the  
13 recording be made available for public  
14 inspection and copying with no redaction of  
15 the portions that were temporarily withheld  
16 by reliance on this division or order an  
17 extension of time during which the recording  
18 may be withheld under the provisions of this  
19 division. An order granting an extension of  
20 time shall be applicable to the recording  
21 against all appellants for the duration of  
22 the extension. Provided, each such time  
23 extension shall only be ordered by the  
24 district court for an additional twelve-

1 month period of time or less and cumulative  
2 time extensions shall not add up to more  
3 than three (3) years. Provided, charges  
4 being filed against a person in the case in  
5 question automatically cancels any extension  
6 of time. A new request for an extension of  
7 time following an arraignment or initial  
8 appearance may be requested by the parties  
9 on the grounds and under the terms provided  
10 for in subdivision (a) of this division.

11 The options presented in this division to  
12 potentially withhold a recording or portions of a  
13 recording on the grounds provided for in this  
14 division shall expire in totality four (4) years  
15 after the recording was made at which time all  
16 recordings previously withheld on the grounds  
17 provided for in this division shall be made  
18 available for public inspection and copying, or  
19 (13) reveal the identity of law enforcement officers  
20 who have become subject to internal investigation  
21 by the law enforcement agency as a result of an  
22 event depicted in the recording. The option to  
23 protect the identity of a law enforcement officer  
24 shall not be available to the law enforcement

1 agency after the law enforcement agency has  
2 concluded the investigation and rendered a  
3 decision as to final disciplinary action. At  
4 such time when an investigation has concluded and  
5 the law enforcement agency has rendered its  
6 decision as to final disciplinary action, the  
7 portions of the recordings previously withheld as  
8 provided for in this division shall be available  
9 for public inspection and copying. The audio and  
10 video recordings withheld on the grounds provided  
11 for in this division shall be available for  
12 public inspection and copying before the  
13 conclusion of the investigation if the  
14 investigation lasts for an unreasonable amount of  
15 time.

16 B. Except for the records listed in subsection A of this  
17 section and those made open by other state or local laws, law  
18 enforcement agencies may deny access to law enforcement records  
19 except where a court finds that the public interest or the interest  
20 of an individual outweighs the reason for denial. The provisions of  
21 this section shall not operate to deny access to law enforcement  
22 records if such records have been previously made available to the  
23 public as provided in the Oklahoma Open Records Act or as otherwise  
24 provided by law.

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

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

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

19 1. To verify the current certification status of any peace  
20 officer;

21 2. As may be required to perform the duties imposed by Section  
22 3311 of Title 70 of the Oklahoma Statutes;

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

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 2.        AMENDATORY        63 O.S. 2011, Section 2-506, as  
5 last amended by Section 1, Chapter 225, O.S.L. 2016 (63 O.S. Supp.  
6 2018, Section 2-506), is amended to read as follows:

7        Section 2-506. A. Any peace officer of this state shall seize  
8 the following property:

9        1. Any property described in subsection A of Section 2-503 of  
10 this title. Such property shall be held as evidence until a  
11 forfeiture has been declared or release ordered, except for property  
12 described in paragraphs 1, 2 and 3 of subsection A of Section 2-503  
13 of this title, or in the case of money, coins, and currency,  
14 deposited as provided in subsection E of Section 2-503 of this  
15 title; provided, any money, coins and currency taken or detained  
16 pursuant to this section may be deposited in an interest-bearing  
17 account by or at the direction of the district attorney in the  
18 office of the county treasurer if the district attorney determines  
19 the currency is not to be held as evidence. All interest earned on  
20 such monies shall be returned to the claimant or forfeited with the  
21 money, coins and currency which was taken or detained as provided by  
22 law;

23        2. Any property described in subsection B of Section 2-503 of  
24 this title; or



1        3. Any property described in subsection C of Section 2-503 of  
2 this title.

3        B. Notice of seizure and intended forfeiture proceeding shall  
4 be filed in the office of the clerk of the district court for the  
5 county wherein such property is seized and shall be given all owners  
6 and parties in interest. Notwithstanding any other provision of  
7 law, no filing fees shall be assessed by the court clerk for the  
8 filing of any forfeiture action.

9        C. Notice shall be given by the agency seeking forfeiture  
10 according to one of the following methods:

11        1. Upon each owner or party in interest whose right, title or  
12 interest is of record in the Tax Commission, by mailing a copy of  
13 the notice by certified mail to the address as given upon the  
14 records of the Tax Commission;

15        2. Upon each owner or party in interest whose name and address  
16 is known to the attorney in the office of the agency prosecuting the  
17 action to recover unpaid fines, by mailing a copy of the notice by  
18 registered mail to the last-known address; or

19        3. Upon all other owners or interested parties, whose addresses  
20 are unknown, but who are believed to have an interest in the  
21 property, by one publication in a newspaper of general circulation  
22 in the county where the seizure was made.

23        D. Within forty-five (45) days after the mailing or publication  
24 of the notice, the owner of the property and any other party in

1 interest or claimant may file a verified answer and claim to the  
2 property described in the notice of seizure and of the intended  
3 forfeiture proceeding.

4 E. If at the end of forty-five (45) days after the notice has  
5 been mailed or published there is no verified answer on file, the  
6 court shall hear evidence upon the fact of the unlawful use and  
7 shall order the property forfeited to the state, if such fact is  
8 proved. Except as otherwise provided for in Section 2-503 of this  
9 title, any such property shall be forfeited to the state and sold  
10 under judgment of the court pursuant to the provisions of Section 2-  
11 508 of this title.

12 F. If a verified answer is filed, the forfeiture proceeding  
13 shall be set for hearing.

14 G. At a hearing in a proceeding against property described in  
15 paragraphs 3 through 9 of subsection A or subsections B and C of  
16 Section 2-503 of this title, the requirements set forth in ~~said~~ the  
17 paragraph or subsection, respectively, shall be satisfied by the  
18 state by a preponderance of the evidence.

19 H. The claimant of any right, title, or interest in the  
20 property may prove a lien, mortgage, or conditional sales contract  
21 to be a bona fide or innocent ownership interest and that such  
22 right, title, or interest was created without any knowledge or  
23 reason to believe that the property was being, or was to be, used  
24 for the purpose charged.

1 I. In the event of such proof, the court shall order the  
2 property released to the bona fide or innocent owner, lien holder,  
3 mortgagee or vendor if the amount due him is equal to, or in excess  
4 of, the value of the property as of the date of the seizure, it  
5 being the intention of this section to forfeit only the right, title  
6 or interest of the purchaser.

7 J. If the amount due to such person is less than the value of  
8 the property, or if no bona fide claim is established, the property  
9 shall be forfeited to the state and sold under judgment of the  
10 court, as provided for in Section 2-508 of this title, except as  
11 otherwise provided for in Section 2-503 of this title.

12 K. Property taken or detained under this section shall not be  
13 repleviable, but shall be deemed to be in the custody of the office  
14 of the district attorney of the county wherein the property was  
15 seized, subject only to the orders and decrees of the court or the  
16 official having jurisdiction thereof; ~~said~~ the official shall  
17 maintain a true and accurate inventory and record of all such  
18 property seized under the provisions of this section. The  
19 provisions of this subsection shall not apply to property taken or  
20 detained by the Oklahoma State Bureau of Narcotics and Dangerous  
21 Drugs Control, the Department of Public Safety, the Oklahoma State  
22 Bureau of Investigation, the Alcoholic Beverage Laws Enforcement  
23 Commission, the Department of Corrections or the Office of the  
24 Attorney General. Property taken or detained by the Oklahoma State

1 Bureau of Narcotics and Dangerous Drugs Control, the Department of  
2 Public Safety, the Oklahoma State Bureau of Investigation, the  
3 Alcoholic Beverage Laws Enforcement Commission, the Department of  
4 Corrections or the Office of the Attorney General shall be subject  
5 to the provisions of subsections E and F of Section 2-503 of this  
6 title.

7 L. The proceeds of the sale of any property not taken or  
8 detained by the Oklahoma State Bureau of Narcotics and Dangerous  
9 Drugs Control, the Department of Public Safety, the Oklahoma State  
10 Bureau of Investigation, the Alcoholic Beverage Laws Enforcement  
11 Commission, the Department of Corrections or the Office of the  
12 Attorney General shall be distributed as follows, in the order  
13 indicated:

14 1. To the bona fide or innocent purchaser, conditional sales  
15 vendor or mortgagee of the property, if any, up to the amount of his  
16 or her interest in the property, when the court declaring the  
17 forfeiture orders a distribution to such person;

18 2. To the payment of the actual expenses of preserving the  
19 property and legitimate costs related to the civil forfeiture  
20 proceedings. For purposes of this paragraph, the term "legitimate  
21 costs" shall not include court costs associated with any civil  
22 forfeiture proceeding; and

23 3. The balance to a revolving fund in the office of the county  
24 treasurer of the county wherein the property was seized, ~~said~~ the

1 fund to be used as a revolving fund solely for enforcement of  
2 controlled dangerous substances laws, drug abuse prevention and drug  
3 abuse education, and maintained by the district attorney in his or  
4 her discretion for those purposes with a yearly accounting to the  
5 board of county commissioners in whose county the fund is  
6 established and to the District Attorneys Council; provided, one  
7 hundred percent (100%) of the balance of the proceeds of such sale  
8 of property forfeited due to nonpayment of a fine imposed pursuant  
9 to the provisions of Section 2-415 of this title shall be  
10 apportioned as provided in Section 2-416 of this title. The  
11 revolving fund shall be audited by the State Auditor and Inspector  
12 at least every two (2) years in the manner provided in Section 171  
13 of Title 19 of the Oklahoma Statutes. ~~Said~~ The audit shall include,  
14 but not be limited to, a compliance audit. A district attorney may  
15 enter into agreements with municipal, tribal, county or state  
16 agencies to return to such an agency a percentage of proceeds of the  
17 sale of any property seized by the agency and forfeited under the  
18 provisions of this section. The District Attorneys Council shall  
19 adopt guidelines which ensure that such agencies receive a  
20 reasonable percentage of such proceeds, considering the relative  
21 contribution of each agency to the drug enforcement and prosecution  
22 operations relating to the seizure. In formulating ~~said~~ the  
23 guidelines, the District Attorneys Council shall examine federal  
24 guidelines on asset distribution and use ~~said~~ the guidelines as a

1 basis for establishing guidelines for this state. The Attorney  
2 General is hereby authorized to mediate disputes between district  
3 attorneys and such agencies concerning the application of ~~said~~ the  
4 guidelines in particular instances. Any agency that receives  
5 proceeds from an asset distribution shall maintain a true and  
6 accurate record of all such assets.

7 M. Whenever any vehicle, airplane or vessel is forfeited under  
8 the Uniform Controlled Dangerous Substances Act, the district court  
9 of jurisdiction may order that the vehicle, airplane or vessel  
10 seized may be retained by the state, county or city law enforcement  
11 agency which seized the vehicle, airplane or vessel for its official  
12 use.

13 N. If the court finds that the state failed to satisfy the  
14 required showing provided for in subsection G of this section, the  
15 court shall order the property released to the owner or owners.

16 O. Except as provided for in subsection Q of this section, a  
17 bona fide or innocent owner, lien holder, mortgagee or vendor that  
18 recovers property pursuant to this section shall not be liable for  
19 storage fees.

20 P. Except as provided for in subsection Q of this section,  
21 storage fees shall be paid by the agency which is processing the  
22 seizure and forfeiture from funds generated by seizure and  
23 forfeiture actions.

1       Q. The bona fide or innocent owner, lien holder, mortgagee or  
2 vendor shall reclaim subject seized property within thirty (30) days  
3 of written notice from the seizing agency. If such person fails to  
4 reclaim the property within the thirty-day time period, then storage  
5 fees may be assessed against their secured interest.

6       R. 1. At any hearing held relevant to this section, a report  
7 of the findings of the laboratory of the Oklahoma State Bureau of  
8 Investigation, the medical examiner's report of investigation or  
9 autopsy report, or a laboratory report from a forensic laboratory  
10 operated by the State of Oklahoma or any political subdivision  
11 thereof, which has been made available to the accused by the office  
12 of the district attorney or other party to the forfeiture at least  
13 five (5) days prior to the hearing, with reference to all or part of  
14 the evidence submitted, when certified as correct by the persons  
15 making the report shall be received as evidence of the facts and  
16 findings stated, if relevant and otherwise admissible in evidence.  
17 If such report is deemed relevant by the forfeiture applicant or the  
18 respondent, the court shall admit such report without the testimony  
19 of the person making the report, unless the court, pursuant to this  
20 subsection, orders such person to appear.

21       2. When any alleged controlled dangerous substance has been  
22 submitted to the laboratory of the OSBI for analysis, and such  
23 analysis shows that the submitted material is a controlled dangerous  
24 substance, the distribution of which constitutes a felony under the

1 laws of this state, no portion of such substance shall be released  
2 to any other person or laboratory except to the criminal justice  
3 agency originally submitting the substance to the OSBI for analysis,  
4 absent an order of a district court. The defendant shall  
5 additionally be required to submit to the court a procedure for  
6 transfer and analysis of the subject material to ensure the  
7 integrity of the sample and to prevent the material from being used  
8 in any illegal manner.

9 3. The court, upon motion of either party, shall order the  
10 attendance of any person preparing a report submitted as evidence in  
11 the hearing when it appears there is a substantial likelihood that  
12 material evidence not contained in ~~said~~ the report may be produced  
13 by the testimony of any person having prepared a report. The  
14 hearing shall be held and, if sustained, an order issued not less  
15 than five (5) days prior to the time when the testimony shall be  
16 required.

17 4. If within five (5) days prior to the hearing or during a  
18 hearing, a motion is made pursuant to this section requiring a  
19 person having prepared a report to testify, the court may hear a  
20 report or other evidence but shall continue the hearing until such  
21 time notice of the motion and hearing is given to the person making  
22 the report, the motion is heard, and, if sustained, the testimony  
23 ordered can be given.

24



1       S. In any forfeiture proceeding under this chapter in which the  
2 defendant or claimant prevails, the court may order the plaintiff  
3 processing the seizure and forfeiture to pay from funds generated by  
4 seizure and forfeiture actions:

5       1. Reasonable attorney fees and other litigation costs  
6 reasonably incurred by the defendant or claimant directly related to  
7 the claim on which the defendant or claimant prevailed;

8       2. Postjudgment interest; and

9       3. In cases involving currency or other negotiable instruments:

10       a. interest actually paid to the state from the date of  
11 seizure or arrest of the property that resulted from  
12 the investment of the property in an interest-bearing  
13 account or instrument, and

14       b. an imputed amount of interest that such currency,  
15 instruments, or proceeds would have earned at the rate  
16 applicable to the thirty-day Treasury Bill, for any  
17 period during which no interest was paid, not  
18 including any period when the property reasonably was  
19 in use as evidence in an official proceeding or in  
20 conducting scientific tests for the purpose of  
21 collecting evidence, commencing fifteen (15) days  
22 after the property was seized by a law enforcement  
23 agency or was turned over to a law enforcement agency  
24 by a federal law enforcement authority.

1        T. Any law enforcement agency seizing property pursuant to this  
2 section shall submit an annual report identifying the property  
3 seized and the disposition of such property to the Governor, the  
4 President Pro Tempore of the Senate, the Speaker of the House of  
5 Representatives and the Office of the State Auditor and Inspector.  
6 All reports submitted pursuant to this subsection shall be made  
7 available to the public.

8        SECTION 3. This act shall become effective November 1, 2019.

9        COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
10       February 26, 2019 - DO PASS