

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 SENATE BILL 1372

By: Coleman

6 AS INTRODUCED

7 An Act relating to the Oklahoma Open Records Act;  
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 2019, Section 24A.8), which relates to disclosure of  
11 law enforcement records; clarifying requirements for  
12 providing certain records available through  
13 discovery; construing provisions; and providing an  
14 effective date.

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

16 SECTION 1. AMENDATORY 51 O.S. 2011, Section 24A.8, as  
17 last amended by Section 2, Chapter 370, O.S.L. 2015 (51 O.S. Supp.  
18 2019, Section 24A.8), is amended to read as follows:

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

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

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

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

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

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

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

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

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

20       9. Audio and video recordings from recording equipment attached  
21 to law enforcement vehicles or associated audio recordings from  
22 recording equipment on the person of a law enforcement officer;  
23 provided, the law enforcement agency may, before releasing any audio  
24

1 or video recording provided for in this paragraph, redact or obscure  
2 specific portions of the recording which:

- 3 a. depict the death of a person or a dead body, unless  
4 the death was effected by a law enforcement officer,
- 5 b. depict nudity,
- 6 c. would identify minors under the age of sixteen (16)  
7 years or would undermine any requirement to keep  
8 certain juvenile records confidential as provided for  
9 in Title 10A of the Oklahoma Statutes,
- 10 d. depict acts of severe violence resulting in great  
11 bodily injury, as defined in Section 11-904 of Title  
12 47 of the Oklahoma Statutes, against persons that are  
13 clearly visible, unless the act of severe violence was  
14 effected by a law enforcement officer,
- 15 e. depict great bodily injury, as defined in Section 11-  
16 904 of Title 47 of the Oklahoma Statutes, unless the  
17 great bodily injury was effected by a law enforcement  
18 officer,
- 19 f. include personal medical information that is not  
20 already public,
- 21 g. would undermine the assertion of a privilege provided  
22 in Section 1-109 or Section 3-428 of Title 43A of the  
23 Oklahoma Statutes for detention or transportation for  
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1           mental health evaluation or treatment or drug or  
2           alcohol detoxification purposes,

3           h.   include personal information other than the name or  
4               license plate number of a person not arrested, cited,  
5               charged or issued a written warning. Such personal  
6               information shall include any government-issued  
7               identification number, date of birth, address or  
8               financial information, or

9           i.   reveal the identity of law enforcement officers who  
10               have become subject to internal investigation by the  
11               law enforcement agency as a result of an event  
12               depicted in the recording. The option to protect the  
13               identity of a law enforcement officer shall not be  
14               available to the law enforcement agency after the law  
15               enforcement agency has concluded the investigation and  
16               rendered a decision as to final disciplinary action.  
17               At such time when an investigation has concluded and  
18               the law enforcement agency has rendered its decision  
19               as to final disciplinary action, the portions of the  
20               recordings previously withheld as provided for in this  
21               subparagraph shall be available for public inspection  
22               and copying. The audio and video recordings withheld  
23               as provided for in this subparagraph shall be  
24               available for public inspection and copying before the

1 conclusion of the investigation if the investigation  
2 lasts for an unreasonable amount of time; and

3 10. a. Audio and video recordings from recording equipment  
4 attached to the person of a law enforcement officer  
5 that depict:

6 (1) the use of any physical force or violence by a  
7 law enforcement officer,

8 (2) pursuits of any kind,

9 (3) traffic stops,

10 (4) any person being arrested, cited, charged or  
11 issued a written warning,

12 (5) events that directly led to any person being  
13 arrested, cited, charged or receiving a written  
14 warning,

15 (6) detentions of any length for the purpose of  
16 investigation,

17 (7) any exercise of authority by a law enforcement  
18 officer that deprives a citizen of his or her  
19 liberty,

20 (8) actions by a law enforcement officer that have  
21 become the cause of an investigation or charges  
22 being filed,

23 (9) recordings in the public interest that may  
24 materially aid a determination of whether law  
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1 enforcement officers are appropriately performing  
2 their duties as public servants, or

3 (10) any contextual events occurring before or after  
4 the events depicted in divisions (1) through (9)  
5 of this subparagraph.

6 b. Notwithstanding the provisions of subparagraph a of  
7 this paragraph, the law enforcement agency may, before  
8 releasing any audio or video recording provided for in  
9 this paragraph, redact or obscure specific portions of  
10 the recording that:

11 (1) depict the death of a person or a dead body,  
12 unless the death was effected by a law  
13 enforcement officer,

14 (2) depict nudity,

15 (3) would identify minors under the age of sixteen  
16 (16) years or would undermine any requirement to  
17 keep certain juvenile records confidential as  
18 provided for in Title 10A of the Oklahoma  
19 Statutes,

20 (4) depict acts of severe violence resulting in great  
21 bodily injury, as defined in Section 11-904 of  
22 Title 47 of the Oklahoma Statutes, against  
23 persons that are clearly visible, unless the act  
24

1 of severe violence was effected by a law  
2 enforcement officer,

3 (5) depict great bodily injury, as defined in Section  
4 11-904 of Title 47 of the Oklahoma Statutes,  
5 unless the great bodily injury was effected by a  
6 law enforcement officer,

7 (6) include personal medical information that is not  
8 already public,

9 (7) undermine the assertion of a privilege as  
10 provided in Section 1-109 or Section 3-428 of  
11 Title 43A of the Oklahoma Statutes for detention  
12 or transportation for mental health evaluation or  
13 treatment or drug or alcohol detoxification  
14 purposes,

15 (8) identify alleged victims of sex crimes or  
16 domestic violence,

17 (9) identify any person who provides information to  
18 law enforcement or the information provided by  
19 that person when that person requests anonymity  
20 or where disclosure of the identity of the person  
21 or the information provided could reasonably be  
22 expected to threaten or endanger the physical  
23 safety or property of the person or the physical  
24 safety or property of others,

1 (10) undermine the assertion of a privilege to keep  
2 the identity of an informer confidential as  
3 provided for in Section 2510 of Title 12 of the  
4 Oklahoma Statutes,

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

12 (12) include information that would materially  
13 compromise an ongoing criminal investigation or  
14 ongoing criminal prosecution, provided that:

15 (a) ten (10) days following the formal  
16 arraignment or initial appearance, whichever  
17 occurs first, of a person charged in the  
18 case in question, the recording shall be  
19 made available for public inspection and  
20 copying with no redaction of the portions  
21 that were temporarily withheld by reliance  
22 on this division. Provided, before  
23 potential release of a recording as provided  
24 for in this subdivision, the prosecutor or



1 legal representative of the person charged  
2 may request from the appropriate district  
3 court an extension of time during which the  
4 recording may be withheld under the  
5 provisions of this division. When a request  
6 for an extension of time has been filed with  
7 the court, the recording in question may be  
8 withheld until the court has issued a  
9 ruling. Such requests for an extension of  
10 the time during which the recording may be  
11 withheld may be made on the grounds that  
12 release of the recording will materially  
13 compromise an ongoing criminal investigation  
14 or criminal prosecution or on the grounds  
15 that release of the recording will  
16 materially compromise the right of an  
17 accused to a fair trial that has yet to  
18 begin. Courts considering such requests  
19 shall conduct a hearing and consider whether  
20 the interests of the public outweigh the  
21 interests asserted by the parties. In  
22 response to such requests, the court shall  
23 order that the recording be made available  
24 for public inspection and copying with no

1 redaction of the portions that were  
2 temporarily withheld by reliance on this  
3 division or order an extension of time  
4 during which the recording may be withheld  
5 under the provisions of this division.  
6 Provided further, each such time extension  
7 shall only be ordered by the court for an  
8 additional six-month period of time or less  
9 and cumulative time extensions shall not add  
10 up to more than eighteen (18) months, or  
11 (b) in the event that one hundred twenty (120)  
12 days expire from the date of the events  
13 depicted in the recording without any person  
14 being criminally charged in the case in  
15 question and release of a recording or  
16 portions of a recording have been denied on  
17 the grounds provided for in this division,  
18 an appeal of such denial may be made to the  
19 appropriate district court. In situations  
20 where one hundred twenty (120) days have  
21 expired since the creation of the recording,  
22 criminal charges have not been filed against  
23 a person and the recording is being withheld  
24 on the grounds provided for in this

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

1 question automatically cancels any extension  
2 of time. A new request for an extension of  
3 time following an arraignment or initial  
4 appearance may be requested by the parties  
5 on the grounds and under the terms provided  
6 for in subdivision (a) of this division.

7 The options presented in this division to  
8 potentially withhold a recording or portions of a  
9 recording on the grounds provided for in this  
10 division shall expire in totality four (4) years  
11 after the recording was made at which time all  
12 recordings previously withheld on the grounds  
13 provided for in this division shall be made  
14 available for public inspection and copying, or

15 (13) reveal the identity of law enforcement officers  
16 who have become subject to internal investigation  
17 by the law enforcement agency as a result of an  
18 event depicted in the recording. The option to  
19 protect the identity of a law enforcement officer  
20 shall not be available to the law enforcement  
21 agency after the law enforcement agency has  
22 concluded the investigation and rendered a  
23 decision as to final disciplinary action. At  
24 such time when an investigation has concluded and

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

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

21 C. Nothing contained in this section imposes any new  
22 recordkeeping requirements. Law enforcement records shall be kept  
23 for as long as is now or may hereafter be specified by law. Absent  
24 a legal requirement for the keeping of a law enforcement record for  
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1 a specific time period, law enforcement agencies shall maintain  
2 their records for so long as needed for administrative purposes.  
3 Nothing in the Oklahoma Open Records Act shall be construed to  
4 require law enforcement agencies to provide records that have been  
5 turned over to a district attorney's office for prosecution and that  
6 are available through the process of criminal discovery pursuant to  
7 Title 22 of the Oklahoma Statutes.

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

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

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

22 2. As may be required to perform the duties imposed by Section  
23 3311 of Title 70 of the Oklahoma Statutes;

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

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

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

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

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

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

15           a. training, lesson plans, teaching materials, tests, and  
16 test results,

17           b. policies, procedures, and operations, any of which are  
18 of a tactical nature, and

19           c. the following information from radio logs:

20               (1) telephone numbers,

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

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

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

SECTION 2. This act shall become effective November 1, 2020.

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