

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1802

By: Smalley

6 AS INTRODUCED

7 An Act relating to court records; amending 20 O.S.
8 2011, Sections 1005 and 1008, which relate to
9 destruction of court records and depositions;
10 modifying time periods for destruction of records of
11 certain cases; modifying requirements for storage of
12 certain records; modifying time periods for
13 destruction of depositions from certain cases; and
14 providing an effective date.

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

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

18 Section 1005. A. Unless there is an objection by the presiding
19 administrative judge or the chief judge of the district court, the
20 court clerk is authorized to dispose of the judicial records
21 enumerated in this subsection ~~by first offering all or part of the~~
22 ~~records to the Archives and Records Division of the Oklahoma~~
23 ~~Department of Libraries for preservation as historical research~~
24 ~~materials, and by destroying all those which are not accepted by the~~
25 ~~Division.~~ Nothing shall prohibit the presiding administrative judge
or the chief judge of the district court from entering an order for

1 the destruction of records prior to the time limits enumerated in
2 this subsection for good cause shown. In the record destruction
3 process, any officer may rely upon computerized lists or other
4 electronic data provided by the Administrative Office of the Courts
5 or its OCIS/OSCN system. For purposes of determining the time
6 periods in this chapter, the officer may disregard entries or
7 actions taken in the subject cases, such as accounting, internal
8 electronic data or other nonjudicial entries. The judicial records
9 subject to disposal or destruction shall be:

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

- 18 a. domestic relations cases that have been dismissed and
19 no pleading has been filed or any action taken in the
20 case for more than one (1) year, ~~and~~
21 b. all domestic relations cases in which a minor child is
22 involved after a twenty-year period has elapsed since
23 any pleading has been filed or any action taken in the
24 case, and

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

5 2. Probate cases. This shall include, but not be limited to,
6 cases filed concerning the probating of estates, guardianships,
7 conservatorships, mental health, protective services to the elderly,
8 powers of attorney, and trusts:

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

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

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

18 4. Civil ~~(CJ and CS)~~ records of cases:

19 a. civil ~~(CJ and CS)~~ cases that have been dismissed and
20 no pleading has been filed or any action taken in the
21 case for more than one (1) year, and

22 b. all other civil ~~(CJ and CS)~~ cases after a ten-year
23 period has elapsed since any pleading has been filed
24 or any action taken in the case;

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

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

14 6. Misdemeanor records of unadjudicated cases and adjudicated
15 cases:

- 16 a. misdemeanor cases that have been dismissed and no
17 pleading or any action taken in the case for more than
18 one (1) year,
19 b. misdemeanor records of adjudicated cases after a five-
20 year period has elapsed since any pleading has been
21 filed or any action taken in the case; and

22 7. Juvenile cases. This shall include, but not be limited to,
23 cases filed concerning delinquents, children in need of supervision,
24

1 deprived children, children in need of treatment, children in need
2 of shelter, and other related juvenile filings:

- 3 a. juvenile cases that have been dismissed and no
4 pleading has been filed or any action taken in the
5 case for more than one (1) year, and
- 6 b. all juvenile cases after a ~~twenty-year~~ ten-year period
7 has elapsed since any pleading has been filed or any
8 action taken in the case.

9 B. The judicial records and the appearance docket books or
10 sheets on which they are entered, prior to their disposal or
11 destruction, shall be stored on at least two microfilm records,
12 optical ~~disks~~ discs, or other appropriate medium, ~~one of which shall~~
13 ~~be placed in the Archives and Records Division of the Oklahoma~~
14 ~~Department of Libraries or in a bank or other appropriate local~~
15 ~~depository and the other shall be available for public use in the~~
16 ~~court clerk's office. The copy in the Department of Libraries or~~
17 ~~other depository shall be available for replacement in case of~~
18 ~~functional failure of the one available for public use.~~ The cost of
19 the storage medium and equipment for viewing and copying shall be
20 paid out of the court fund, upon approval by the Chief Justice of
21 the Supreme Court. Records reproduced from microfilm, optical ~~disk~~
22 disc, and other media produced pursuant to the provisions of this
23 section shall be received in evidence and have the same legal
24 efficacy as the original.

1 C. Traffic cases. The court clerk of each district court shall
2 destroy the judicial records of traffic cases and the appearance
3 docket books or sheets on which they are entered after a five-year
4 period has elapsed since any pleading has been filed or any action
5 taken in the case, except in the case of a conviction for driving
6 under the influence of intoxicating liquor or any narcotic drug,
7 which records shall be destroyed after a ten-year period has elapsed
8 since any pleading has been filed or any action taken in the case.

9 D. Records of criminal property cases brought pursuant to
10 Section 1321 et seq. of Title 22 of the Oklahoma Statutes shall be
11 subject to disposal or destruction after a two-year period has
12 elapsed since any pleading has been filed or any action taken in the
13 case.

14 E. Protective orders:

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

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

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

22 Section 1008. In each county of this state, the court clerk is
23 hereby authorized to destroy, from time to time, depositions taken
24 in all civil cases and domestic cases in which no minor child is

1 involved, except adoptions, after a ten-year period, and depositions
2 taken in domestic relations cases in which a minor child is involved
3 may be destroyed after a twenty-year period has elapsed since any
4 pleading has been filed or any action taken in the case.

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