

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

HOUSE BILL 2431

By: Nichols

AS INTRODUCED

An Act relating to law enforcement; amending 74 O.S. 2011, Section 18b, as last amended by Section 1, Chapter 444, O.S.L. 2019 (74 O.S. Supp. 2020, Section 18b), which relates to duties of the Attorney General; expanding duties of the Attorney General; directing the Attorney General to establish, administer and operate a database containing certain information about law enforcement officers; directing the Attorney General to maintain database separate and apart from other records; requiring database to be operational by date certain; directing law enforcement agencies to furnish certain information to the Attorney General; providing time limit for submitting information; allowing access to the database by law enforcement agencies; directing law enforcement agencies to review database prior to hiring law enforcement officers; directing the Attorney General to establish certain policies and procedures; declaring information in the database subject to the Oklahoma Open Records Act; making certain acts unlawful; providing penalties; providing immunity from civil or criminal liability; defining terms; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 74 O.S. 2011, Section 18b, as last amended by Section 1, Chapter 444, O.S.L. 2019 (74 O.S. Supp. 2020, Section 18b), is amended to read as follows:

1       Section 18b. A. The duties of the Attorney General as the  
2 chief law officer of the state shall be:

3       1. To appear for the state and prosecute and defend all actions  
4 and proceedings, civil or criminal, in the Supreme Court and Court  
5 of Criminal Appeals in which the state is interested as a party;

6       2. To appear for the state and prosecute and defend all actions  
7 and proceedings in any of the federal courts in which the state is  
8 interested as a party;

9       3. To initiate or appear in any action in which the interests  
10 of the state or the people of the state are at issue, or to appear  
11 at the request of the Governor, the Legislature, or either branch  
12 thereof, and prosecute and defend in any court or before any  
13 commission, board or officers any cause or proceeding, civil or  
14 criminal, in which the state may be a party or interested; and when  
15 so appearing in any such cause or proceeding, the Attorney General  
16 may, if the Attorney General deems it advisable and to the best  
17 interest of the state, take and assume control of the prosecution or  
18 defense of the state's interest therein;

19       4. To consult with and advise district attorneys, when  
20 requested by them, in all matters pertaining to the duties of their  
21 offices, when the district attorneys shall furnish the Attorney  
22 General with a written opinion supported by citation of authorities  
23 upon the matter submitted;

1       5. To give an opinion in writing upon all questions of law  
2 submitted to the Attorney General by the Legislature or either  
3 branch thereof, or by any state officer, board, commission or  
4 department, provided, that the Attorney General shall not furnish  
5 opinions to any but district attorneys, the Legislature or either  
6 branch thereof, or any other state official, board, commission or  
7 department, and to them only upon matters in which they are  
8 officially interested;

9       6. At the request of the Governor, State Auditor and Inspector,  
10 State Treasurer, or either branch of the Legislature, to prosecute  
11 any official bond or any contract in which the state is interested,  
12 upon a breach thereof, and to prosecute or defend for the state all  
13 actions, civil or criminal, relating to any matter connected with  
14 either of their Departments;

15       7. Whenever requested by any state officer, board or  
16 commission, to prepare proper drafts for contracts, forms and other  
17 writing which may be wanted for the use of the state;

18       8. To prepare drafts of bills and resolutions for individual  
19 members of the Legislature upon their written request stating the  
20 gist of the bill or resolution desired;

21       9. To enforce the proper application of monies appropriated by  
22 the Legislature and to prosecute breaches of trust in the  
23 administration of such funds;

1        10. To institute actions to recover state monies illegally  
2 expended, to recover state property and to prevent the illegal use  
3 of any state property, upon the request of the Governor or the  
4 Legislature;

5        11. To pay into the State Treasury, immediately upon its  
6 receipt, all monies received by the Attorney General belonging to  
7 the state;

8        12. To settle, compromise and dispose of an action in which the  
9 Attorney General represents the interests of the state, so long as  
10 the consideration negotiated for such settlement, compromise or  
11 disposition is payable to the state or one of its agencies which is  
12 a named party of the action and any monies, any property or other  
13 item of value is paid first to the State Treasury;

14       13. To keep and file copies of all opinions, contracts, forms  
15 and letters of the office, and to keep an index of all opinions,  
16 contracts and forms according to subject and section of the law  
17 construed or applied;

18       14. To keep a register or docket of all actions, demands and  
19 investigations prosecuted, defended or conducted by the Attorney  
20 General in behalf of the state. The register or docket shall give  
21 the style of the case or investigation, where pending, court number,  
22 office number, the gist of the matter, result and the names of the  
23 assistants who handled the matter;

1       15. To keep a complete office file of all cases and  
2 investigations handled by the Attorney General on behalf of the  
3 state;

4       16. To report to the Legislature or either branch thereof  
5 whenever requested upon any business relating to the duties of the  
6 Attorney General's office;

7       17. To institute civil actions against members of any state  
8 board or commission for failure of such members to perform their  
9 duties as prescribed by the statutes and the Constitution and to  
10 prosecute members of any state board or commission for violation of  
11 the criminal laws of this state where such violations have occurred  
12 in connection with the performance of such members' official duties;

13       18. To respond to any request for an opinion of the Attorney  
14 General's office, submitted by a member of the Legislature,  
15 regardless of subject matter, by written opinion determinative of  
16 the law regarding such subject matter;

17       19. To convene multicounty grand juries in such manner and for  
18 such purposes as provided by law; provided, such grand juries are  
19 composed of citizens from each of the counties on a pro rata basis  
20 by county;

21       20. To investigate any report by the State Auditor and  
22 Inspector filed with the Attorney General pursuant to Section 223 of  
23 this title and prosecute all actions, civil or criminal, relating to  
24 such reports or any irregularities or derelictions in the management

1 of public funds or property which are violations of the laws of this  
2 state;

3 21. To represent and protect the collective interests of all  
4 utility consumers of this state in rate-related proceedings before  
5 the Corporation Commission or in any other state or federal judicial  
6 or administrative proceeding;

7 22. To represent and protect the collective interests of  
8 insurance consumers of this state in rate-related proceedings before  
9 the Insurance Commissioner or in any other state or federal judicial  
10 or administrative proceeding; ~~and~~

11 23. To investigate and prosecute any criminal action relating  
12 to insurance fraud, if in the opinion of the Attorney General a  
13 criminal prosecution is warranted, or to refer such matters to the  
14 appropriate district attorney; and

15 24. To establish, administer and operate a database of  
16 information regarding law enforcement officers who have been  
17 terminated from employment, resigned in lieu of termination,  
18 resigned during a departmental investigation, or resigned before a  
19 disciplinary hearing.

20 B. Nothing in this section shall be construed as requiring the  
21 Attorney General to appear and defend or prosecute in any court any  
22 cause or proceeding for or on behalf of the Oklahoma Tax Commission,  
23 the Board of Managers of the State Insurance Fund, or the  
24 Commissioners of the Land Office.

1 C. In all appeals from the Corporation Commission to the  
2 Supreme Court of Oklahoma in which the state is a party, the  
3 Attorney General shall have the right to designate counsel of the  
4 Corporation Commission as the Attorney General's legally appointed  
5 representative in such appeals, and it shall be the duty of the  
6 Corporation Commission counsel to act when so designated and to  
7 consult and advise with the Attorney General regarding such appeals  
8 prior to taking action therein.

9 SECTION 2. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 20m of Title 74, unless there is  
11 created a duplication in numbering, reads as follows:

12 A. Upon the effective date of this act, the Office of the  
13 Attorney General shall establish, administer and operate a database  
14 of information regarding law enforcement officers who have been  
15 terminated from employment, resigned in lieu of termination,  
16 resigned during a departmental investigation, or resigned before a  
17 disciplinary hearing. The Attorney General shall obtain the  
18 information from the reports provided by law enforcement agencies  
19 pursuant to the provisions of subsection B of this section and shall  
20 include the information in the database. The Attorney General shall  
21 maintain the database separate and apart from other records  
22 maintained by the Attorney General. The Attorney General shall have  
23 the database operational on or before January 1, 2022.

1 B. Each law enforcement agency shall furnish to the Attorney  
2 General, in a format required by the Attorney General, a report  
3 containing the following information:

4 1. The name and date of birth of any law enforcement officer  
5 who was terminated from employment, resigned in lieu of termination,  
6 resigned during a departmental investigation, or resigned before a  
7 disciplinary hearing;

8 2. The reason for termination; and

9 3. The name and telephone number of the law enforcement agency  
10 that furnished the information.

11 The law enforcement agency shall furnish the information within  
12 thirty (30) days after the law enforcement officer was terminated,  
13 resigned in lieu of termination, resigned during a departmental  
14 investigation, or resigned before a disciplinary hearing.

15 C. The Attorney General shall allow law enforcement agencies to  
16 access the database free of charge. A law enforcement agency or the  
17 employee who hires law enforcement officers for the agency shall  
18 review information contained in the database before hiring a law  
19 enforcement officer and shall use the information for the sole  
20 purpose of determining eligibility of the law enforcement officer  
21 for employment with the law enforcement agency.

22 D. The Attorney General shall establish policies and procedures  
23 for the creation, administration and operation of the database and  
24 for the use and dissemination of information from the database. The



1 Attorney General shall update the database by the first day of each  
2 month to reflect information reported to the Attorney General  
3 pursuant to the provisions of subsection B of this section.

4 E. Information in the database is a public record available for  
5 inspection pursuant to the provisions of the Oklahoma Open Records  
6 Act.

7 F. It shall be unlawful for any person to:

8 1. Knowingly use information contained in or received from the  
9 database for purposes not authorized by this section; or

10 2. Knowingly use information contained in or received from the  
11 database with the intent to harass or intimidate another person.

12 Whoever violates the provisions of this subsection shall, upon  
13 conviction, be guilty of a misdemeanor punishable by imprisonment in  
14 the county jail for a term not exceeding one (1) year, or by a fine  
15 not exceeding Five Hundred Dollars (\$500.00), or by both such fine  
16 and imprisonment.

17 G. Law enforcement agencies, employees who hire law enforcement  
18 officers and law enforcement officers who comply with the provisions  
19 of this section shall be immune from any civil or criminal liability  
20 for carrying out the duties set forth in this section.

21 H. As used in this section:

22 1. "Law enforcement agency" means the employer of a law  
23 enforcement officer; and  
24

1        2. "Law enforcement officer" means any police officer, peace  
2 officer, sheriff, deputy sheriff, correctional officer, probation or  
3 parole officer, or any employee of a governmental agency who is  
4 authorized by law to engage in the investigation, arrest,  
5 prosecution, or supervision of the incarceration of any person for  
6 any violation of law and has statutory powers of arrest.

7        SECTION 3. This act shall become effective November 1, 2021.  
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