

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 2132

By: George

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5  
6 AS INTRODUCED

7 An Act relating to criminal procedure; defining  
8 terms; prohibiting law enforcement agencies from  
9 disclosing certain information; providing an  
10 exception; providing guidelines when making certain  
11 considerations; authorizing peace officers to dispute  
12 reports of misconduct; directing the Office of the  
13 Attorney General to conduct contested case hearings;  
14 directing administrative law judge to make certain  
15 determination based on evidence; requiring issuance  
16 of notice under certain circumstances; prohibiting  
17 the use of certain information; providing for  
18 codification; and providing an effective date.

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

20 SECTION 1. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 39.1 of Title 22, unless there  
22 is created a duplication in numbering, reads as follows:

23 A. As used in this section:

24 1. "Attorney representing the state" means an attorney  
authorized by law to represent the state in a criminal case  
including, but not limited to, a district attorney or city or  
municipal attorney; and

1           2. "Law enforcement agency" means an agency of the state or an  
2 agency of a political subdivision of the state authorized by law to  
3 employ peace officers.

4           B. A law enforcement agency may not disclose to an attorney  
5 representing the state information relating to misconduct by a peace  
6 officer who is or will serve as a witness in a criminal proceeding  
7 unless the allegation of misconduct has been finally adjudicated as  
8 sustained.

9           C. When evaluating the credibility of a peace officer who is  
10 serving or will serve as a witness in a criminal proceeding, the  
11 attorney representing the state may not consider an allegation of  
12 misconduct by the peace officer that has not been finally  
13 adjudicated as sustained.

14           D. For purposes of this section, an allegation of misconduct by  
15 a peace officer is not considered finally adjudicated as sustained  
16 if the allegation is under appeal through an administrative process  
17 or judicial proceeding and the finder of fact has not issued a  
18 finding.

19           E. A peace officer who is the subject of a report of misconduct  
20 submitted to an attorney representing the state by a law enforcement  
21 agency or who has been notified of a determination by the attorney  
22 representing the state that the officer is not considered credible  
23 to testify in a criminal proceeding as a result of an allegation of  
24 misconduct may dispute that report or determination by filing a

1 petition with the Office of the Attorney General. The attorney  
2 representing the state shall provide specific details of the  
3 allegation to the peace officer for purposes of a dispute made under  
4 this subsection. The Office of the Attorney General shall conduct a  
5 contested case hearing for the petition.

6 F. In a contested case under the provisions of subsection E of  
7 this section, an administrative law judge appointed by the Office of  
8 the Attorney General shall determine by a preponderance of the  
9 evidence whether the alleged misconduct occurred regardless of  
10 whether the applicable officer was terminated or whether that  
11 officer resigned, retired, or separated in lieu of termination. If  
12 the allegation of misconduct is not supported by a preponderance of  
13 the evidence, the administrative law judge shall provide notice of  
14 the finding to any attorney representing the state the petitioner  
15 identifies as having received a report or as having made a  
16 determination as described by subsection E of this section. The  
17 attorney representing the state may not consider the information  
18 when evaluating the peace officer's credibility as a witness.

19 SECTION 2. This act shall become effective November 1, 2023.

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21 59-1-5475 GRS 01/09/23

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