

1 **SENATE FLOOR VERSION**

2 April 11, 2023

3 **AS AMENDED**

4 ENGROSSED HOUSE

5 BILL NO. 2794

6 By: Stinson and Kerbs of the
7 House

8 and

9 Pugh of the Senate

10 [state judiciary - Oklahoma Judicial Security and
11 Privacy Act of 2023 - notice system for at-risk
12 individuals and their immediate families - exceptions
13 - Administrative Director of the Courts - delegation
14 of authority - report - penalty - severability -
15 codification - effective date]

16 ~~**BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:**~~

17 SECTION 1. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 3011 of Title 20, unless there
19 is created a duplication in numbering, reads as follows:

20 This act shall be known and may be cited as the "Oklahoma
21 Judicial Security and Privacy Act of 2023".
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1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3012 of Title 20, unless there
3 is created a duplication in numbering, reads as follows:

4 As used in this act:

5 1. The term "at-risk individual" means any active or retired
6 member of the State Judiciary, and shall also include municipal,
7 county, and federal judges;

8 2. The term "commercial entity" means any corporation,
9 partnership, limited partnership, proprietorship, sole
10 proprietorship, firm, enterprise, franchise, or association engaged
11 in the buying or selling of goods or services for profit;

12 3. The term "covered information" means:

13 a. a home address, including primary residence or
14 secondary residences of an at-risk individual,

15 b. a home or personal mobile telephone number, or the
16 direct telephone number of a government-issued cell
17 phone or private extension in the chambers of an at-
18 risk individual,

19 c. a personal email address of an at-risk individual,

20 d. the Social Security number, driver license number, or
21 home address displayed on voter registration
22 information of an at-risk individual,

23 e. bank account or credit or debit card information of an
24 at-risk individual,

- 1 f. the home or other address displayed on property tax
2 records or held by a federal, state, or local
3 government agency of an at-risk individual, including
4 any secondary residence and any investment property at
5 which an at-risk individual resides for part of a
6 year,
- 7 g. a license plate number or home address displayed on
8 vehicle registration information of an at-risk
9 individual,
- 10 h. the identification of children under the age of
11 eighteen (18) of an at-risk individual or any child
12 under the age of twenty-six (26) whose permanent
13 residence is the home of the at-risk individual,
- 14 i. the full date of birth,
- 15 j. a photograph of any vehicle that legibly displays the
16 license plate or a photograph of a residence that
17 legibly displays the address of the residence of an
18 at-risk individual,
- 19 k. the name and address of a school or day care facility
20 attended by immediate family of an at-risk individual,
- 21 l. the name and address of an employer of immediate
22 family of an at-risk individual, or
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1 m. the name and address of a place of worship the at-risk
2 individual or immediate family of an at-risk
3 individual attends;

4 4. The term "data broker" means a commercial entity engaged in
5 collecting, assembling, or maintaining personal information
6 concerning an individual who is not a customer, client, or an
7 employee of that entity in order to sell the information or
8 otherwise profit from providing third-party access to the
9 information. The term data broker does not include a commercial
10 entity engaged in the following activities:

11 a. providing 4-1-1 directory assistance or directory
12 information services, including name, address, and
13 telephone number, on behalf of or as a function of a
14 telecommunications carrier,

15 b. using personal information internally, providing
16 access to businesses under common ownership or
17 affiliated by corporate control, or selling or
18 providing data for a transaction or service requested
19 by or concerning the individual whose personal
20 information is being transferred,

21 c. providing publicly available information via real-time
22 or near-real-time alert services for health or safety
23 purposes,
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- 1 d. a consumer reporting agency subject to the federal
2 Fair Credit Reporting Act under 15 U.S.C. Section 1681
3 et seq.,
- 4 e. a financial institution subject to the federal Gramm-
5 Leach-Bliley Act under Public Law No. 106-102 and
6 regulations implementing that act,
- 7 f. a covered entity for purposes of the privacy
8 regulations promulgated under Section 264(c) of the
9 federal Health Insurance Portability and
10 Accountability Act of 1996 under 42 U.S.C. Section
11 1320d-2, and
- 12 g. the collection and sale or licensing of covered
13 information incidental to conducting the activities
14 described in subparagraphs a through f of this
15 paragraph;

16 5. The term "immediate family" means a spouse, child, or parent
17 of an at-risk individual or any other familial relative of an at-
18 risk individual whose permanent residence is the same as the at-risk
19 individual;

20 6. The term "social media" means any online electronic medium
21 or a live chat system that:

- 22 a. primarily serves as a medium for users to interact
23 with content generated by other third-party users of
24 the medium,

1 b. enables users to create accounts or profiles specific
2 to the medium or to import profiles from another
3 medium, and

4 c. enables one or more users to generate content that can
5 be viewed by other third-party users of the medium;

6 7. The term "state agency" means:

7 a. an executive agency, as defined by Oklahoma Statute,
8 and

9 b. any county, local or municipal governing body, or
10 regulatory body, and

11 c. any state agency in the judicial branch or legislative
12 branch; and

13 8. The term "transfer" means to sell, license, trade, or
14 exchange for consideration the covered information of an at-risk
15 individual or immediate family.

16 SECTION 3. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 3013 of Title 20, unless there
18 is created a duplication in numbering, reads as follows:

19 A. Each at-risk individual may:

20 1. File written notice of the status of the individual as an
21 at-risk individual, for themselves and immediate family, with each
22 state agency that includes information necessary to ensure
23 compliance with this section, as determined by the Administrative
24 Director of the Courts; and

1 2. Request that each state agency described in Section 2 of
2 this act mark as private their covered information and that of their
3 immediate family.

4 B. State agencies shall not publicly post or publicly display
5 content that includes covered information of an at-risk individual
6 or immediate family. State agencies, upon receipt of a written
7 request under paragraph 1 of subsection A of this section, shall
8 remove the covered information of the at-risk individual or
9 immediate family from publicly available content not later than
10 seventy-two (72) hours after such receipt.

11 C. Nothing in this section shall prohibit a state agency from
12 providing access to records containing the covered information of a
13 member of the judiciary to a third party if the third party:

14 1. Possesses a signed release from the judge or a lawful court
15 order;

16 2. Is subject to the requirements of Title V of the federal
17 Gramm-Leach-Bliley Act, 15 U.S.C., Section 6801 et seq.; or

18 3. Executes a confidentiality agreement with the state agency.

19 SECTION 4. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 3014 of Title 20, unless there
21 is created a duplication in numbering, reads as follows:

22 Upon written request of an at-risk individual, the
23 Administrative Director of the Courts is authorized to make any
24 notice or request required or authorized by this act on behalf of

1 the at-risk individual. The notice or request shall include
2 information necessary to ensure compliance with this act. The
3 Director may delegate this authority to an appropriate state agency.
4 Any notice or request made under this act shall be deemed to have
5 been made by the at-risk individual and comply with the notice and
6 request requirements of this act.

7 In lieu of individual notices or requests, the Administrative
8 Director of the Courts, may provide state agencies, county and
9 municipal governments, data brokers, persons, businesses, or
10 associations with a list of at-risk individuals and their immediate
11 family that includes information necessary to ensure compliance with
12 this act, as determined by the Administrative Director of Courts for
13 the purpose of maintaining compliance with this act. Such list
14 shall be deemed to comply with individual notice and request
15 requirements of this act.

16 SECTION 5. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 3015 of Title 20, unless there
18 is created a duplication in numbering, reads as follows:

19 Not later than one (1) year after the date of enactment of this
20 act, and biennially thereafter, the Administrative Director of the
21 Courts shall submit to the Legislature an annual report that
22 includes:

23 1. A detailed amount spent by the state and local governments
24 on protecting judges' covered information;

1 2. Where the judges' covered information was found; and

2 3. The collection of any new types of personal data found to be
3 used to identify judges who have received threats, including prior
4 home addresses, employers, and institutional affiliations such as
5 nonprofit boards.

6 SECTION 6. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 3016 of Title 20, unless there
8 is created a duplication in numbering, reads as follows:

9 A. It shall be unlawful for a data broker to knowingly sell,
10 license, trade for consideration, or purchase covered information of
11 an at-risk individual or immediate family.

12 B. Except as provided in subsection C of this section, no
13 person, business, or association shall publicly post or publicly
14 display on the Internet covered information of an at-risk individual
15 or immediate family if the at-risk individual has made a written
16 request to that person, business, or association to not disclose the
17 covered information of the at-risk individual or immediate family.

18 C. Subsection B of this section shall not apply to:

19 1. Covered information that the at-risk individual or immediate
20 family voluntarily publishes on the Internet after the date of
21 enactment of this act; or

22 2. Covered information lawfully received from a state
23 government source or from an employee or agent of the state
24 government.

1 D. After receiving a written request under this section, the
2 person, business, or association shall remove within seventy-two
3 (72) hours the covered information from the Internet and ensure that
4 the information is not made available on any website or a subsidiary
5 website controlled by that person, business, or association, and
6 ensure that the covered information of the at-risk individual or
7 immediate family is not made available on any website or a
8 subsidiary website controlled by that person, business, or
9 association.

10 E. After receiving a written request under this section, the
11 person, business, or association shall not transfer the covered
12 information of the at-risk individual or immediate family to any
13 other person, business, or association through any medium. This
14 subsection shall not apply to:

15 1. Covered information that the at-risk individual or immediate
16 family voluntarily publishes on the Internet after the date of
17 enactment of this act; or

18 2. A transfer made at the request of the at-risk individual or
19 that is necessary to effectuate a request to the person, business,
20 or association from the at-risk individual.

21 SECTION 7. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 3017 of Title 20, unless there
23 is created a duplication in numbering, reads as follows:

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1 A. An at-risk individual or their immediate family whose
2 covered information is made public as a result of a violation of
3 this act may bring an action seeking injunctive or declaratory
4 relief in any court of competent jurisdiction. If the court grants
5 injunctive or declaratory relief, the person, business, or
6 association responsible for the violation shall be required to pay
7 the costs and reasonable attorney fees of the at-risk individual or
8 immediate family, as applicable.

9 B. If a person, business, or association knowingly violates an
10 order granting injunctive or declaratory relief under subsection A
11 of this section, the court issuing such order may:

12 1. If the person, business, or association is a government
13 agency:

14 a. impose a fine not greater than Four Thousand Dollars
15 (\$4,000.00), and

16 b. award to the at-risk individual or their immediate
17 family, as applicable, court costs and reasonable
18 attorney fees; and

19 2. If the person, business, or association is not a government
20 agency, award to the at-risk individual or their immediate family,
21 as applicable:

22 a. an amount equal to the actual damages sustained by the
23 at-risk individual or their immediate family, and

24 b. court costs and reasonable attorney fees.

1 SECTION 8. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3018 of Title 20, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Nothing in this act shall be construed:

5 1. To prohibit, restrain, or limit the lawful investigation or
6 reporting by the press of any unlawful activity or misconduct
7 alleged to have been committed by an at-risk individual or their
8 immediate family;

9 2. To impair access to decisions and opinions from a member of
10 the State Judiciary in the course of carrying out their public
11 functions;

12 3. To limit the publication or transfer of covered information
13 that the at-risk individual or their immediate family member
14 voluntarily publishes on the Internet after the date of enactment of
15 this act; or

16 4. To prohibit information sharing by a data broker to a
17 federal, state, tribal, or local government, or any unit thereof.

18 B. This act shall be broadly construed to favor the protection
19 of the covered information of at-risk individuals and their
20 immediate family.

21 SECTION 9. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 3019 of Title 20, unless there
23 is created a duplication in numbering, reads as follows:

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1 If any provision of this act, an amendment made by this act, or
2 the application of such provision or amendment to any person or
3 circumstance is held to be unconstitutional, the remainder of this
4 act and the amendments made by this act and the application of the
5 remaining provisions of this act and amendments to any person or
6 circumstance shall not be affected.

7 SECTION 10. This act shall become effective November 1, 2023.

8 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
9 April 11, 2023 - DO PASS AS AMENDED

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