

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3742 _____ Of the printed Bill
Page _____ Section _____ Lines _____

Of the Engrossed Bill

By deleting the content of the entire measure, and by inserting in lieu
thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Erick Harris

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 60th Legislature (2026)

3 PROPOSED POLICY
4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3742

7 By: Harris

8 PROPOSED POLICY COMMITTEE SUBSTITUTE

9 An Act relating to criminal procedure; amending 22
10 O.S. 2021, Section 2002, as amended by Section 2,
11 Chapter 327, O.S.L. 2025 (22 O.S. Supp. 2025, Section
12 2002), which relates to the Oklahoma Criminal
13 Discovery Code; directing the state to disclose
14 certain evidence prior to the initial appearance of
15 defendants; requiring the disclosure of evidence
16 favorable to the defendant; requiring disclosure
17 despite its form; declaring the ongoing duty to
18 disclose information; increasing time limitation for
19 introducing testimony from informants and
20 codefendants; updating informant references;
21 modifying scope of certain defined term; clarifying
22 disclosure duties of defendants; providing for the
23 filing of discovery motions any time following
24 initial appearances; establishing time limitation for
completing discovery issues; providing an exception
to certain witnesses; authorizing courts to compel
discovery or order sanctions; directing courts to
order disclosure of evidence and sanctions upon
certain finding; providing exceptions; directing
courts to make certain considerations when ordering
sanctions; specifying types of available sanctions;
requiring the disclosure of certain documents
favorable to defendants; and providing an effective
date.

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

1 SECTION 1. AMENDATORY 22 O.S. 2021, Section 2002, as
2 amended by Section 2, Chapter 327, O.S.L. 2025 (22 O.S. Supp. 2025,
3 Section 2002), is amended to read as follows:

4 Section 2002. A. Disclosure of Evidence by the State.

5 1. Upon request Within thirty (30) days of the defense initial
6 appearance, the state shall disclose the following:

7 a. unless otherwise prohibited by law, the names and
8 addresses full contact information, as available to
9 the state, of witnesses which the state intends to
10 call at trial interviewed, identified, or known by any
11 member of law enforcement or any member of the office
12 of the prosecutor during the course of the
13 prosecution, together with their relevant, written or
14 recorded statement, if any, or if none, significant
15 summaries of any oral statement,

16 b. all law enforcement reports made in connection with
17 the particular case, including initial and
18 supplemental reports by any person or agency involved
19 in the investigation of the case, photographs,

20 diagrams, vehicle dashboard camera and body camera
21 video, audio and video recordings, and any other
22 tangible means of memorializing information,

23 c. any all written or recorded statements and the
24 substance of any all oral statements made by the

accused or made by a codefendant to any member of law enforcement, any member of the office of the prosecutor, or any other person or agency involved in the investigation of the case,

d. names and full contact information, as available to the state, of all eyewitnesses interviewed by law enforcement, whether the witness made a positive identification or not. All initial and subsequent suspect descriptions obtained from eyewitnesses. All photographs and line up materials taken or used during a line up procedure, and any notes or reports made resulting from the line up procedure. The duty to disclose evidence also requires all pre-line up and post-line up instructions given to the witness to be produced as well as recordings made prior to, during, or following the line up procedure,

e. any all reports or statements of examinations or tests
made ~~by experts~~ in connection with the particular
case, including results of physical or mental
examinations ~~and of, preliminary or presumptive tests~~
and screening results, scientific tests, experiments,
~~or~~ comparisons, polygraph testing, including all raw
data, worksheets, laboratory notes, diagrams, and peer
review notes or reports and any such records stored

electronically, and all records of proficiency testing relating to any testing or analysis,

e. any

f. all books, papers, documents, photographs, tangible objects, buildings or places which the prosecuting attorney intends to use in the hearing or trial or which were obtained ~~from or belong to~~ during the ~~accused~~ course of the investigation,

~~f. any record~~

g. all records of prior criminal convictions of the defendant, ~~or of~~ any ~~co~~defendant codefendants, and witnesses that law enforcement or the prosecutor has interviewed in the course of the investigation of the case,

g. Oklahoma State Bureau of Investigation (OSBI) rap sheet/records

h. full background check, including criminal history, on any witness listed by the state or the defense as a witness who will testify at trial, as well as any convictions of any witness revealed through additional record checks if the defense has furnished Social Security numbers or date of birth for their witnesses except OSBI rap sheet/record checks shall not provide

1 date of birth, Social Security number, home phone
2 number or address,

3 i. dispatch records, 9-1-1 calls, or other emergency
4 service calls related to the crime or to anyone
5 charged with the crime resulting from calls related to
6 the investigation into the case. The prosecution may
7 withhold the names and identifying information of any
8 victim who contacted 9-1-1 or other emergency services
9 provided; however, an application for a protective
10 order pursuant to the provisions of paragraph 1 of
11 subsection E of this section may be made. If the
12 prosecution intends to call such person as a witness
13 at a trial or hearing, the prosecution shall disclose
14 the name and contact information, as available to the
15 state, of such witness no later than thirty (30) days
16 before such trial or hearing or as soon as
17 practicable, and

18 j. the name and work affiliation of all law enforcement
19 personnel who have evidence or information relevant to
20 any offense charged or to any potential defense
21 thereto, including a designation by the prosecutor as
22 to which of those persons may be called as a witness.
23 Unless the court rules otherwise for good cause shown,
24 information pursuant to the provisions of this

1 subparagraph relating to undercover personnel may be
2 withheld and redacted from discovery materials without
3 the need to file a motion and upon written
4 notification by the prosecution that such information
5 has not been disclosed.

6 2. The state shall provide the defendant any all evidence which
7 may be favorable to the defendant ~~if such~~ including, but not limited
8 to, evidence ~~is material to either~~ that:

- 9 a. negates the guilt or punishment of the defendant as to
10 a charged offense,
- 11 b. reduces the degree of or mitigates the culpability of
12 the defendant as to a charged offense,
- 13 c. supports a potential defense to a charged offense,
- 14 d. impeaches the credibility of a testifying prosecution
15 witness,
- 16 e. undermines evidence of the identity of the defendant
17 as a perpetrator of a charged offense,
- 18 f. provides a basis for a motion to suppress evidence, or
- 19 g. mitigates punishment.

20 Information under the provisions of this paragraph shall be
21 disclosed whether or not such information is recorded in tangible
22 form and irrespective of whether the prosecutor credits the
23 information.

1 The prosecutor shall have an ongoing duty to disclose such
2 information expeditiously upon its receipt.

3 3. The prosecuting attorney's obligations under this standard
4 extend to:

- 5 a. material and information in the possession or control
6 of members of the prosecutor's staff,
- 7 b. any information in the possession of law enforcement
8 agencies that regularly report to the prosecutor of
9 which the prosecutor should reasonably know, and
- 10 c. any information in the possession of law enforcement
11 agencies who have reported to the prosecutor with
12 reference to the particular case of which the
13 prosecutor should reasonably know.

14 4. a. If the state intends to introduce testimony of a
15 jailhouse an informant, including a codefendant, the
16 state shall disclose at least ~~ten~~ (10) thirty (30)
17 days prior to trial:

- 18 (1) the complete criminal history of such informant,
19 including any dismissed charges,
- 20 (2) any deal, promise, inducement or benefit that the
21 state or law enforcement agency has made or may
22 make in the future to the jailhouse informant in
23 connection with the testimony of such informant,

(3) the specific statements or recordings made by the suspect or defendant and the time, place and

informant,

(4) all other filed cases in which the state intended to introduce the testimony of the jailhouse

informant in connection with a deal, promise,

inducement or benefit, the nature of the deal,

promise, inducement or benefit, and whether the

testimony was admitted in the case,

whether at any time the jailhouse is

(5) whether at any time the ~~jailhouse~~ informant

recanted the testimony or statement, and if so, a transcript or copy of such recantation, if any,

and

(6) any other information relevant to the credibility of the informant.

b. Each district attorney's office shall maintain a central record that tracks each case in which the state intended to introduce the testimony of the ~~jailhouse~~ informant against a suspect or defendant in connection with a deal, promise, inducement or benefit, the nature of the deal, promise, inducement or benefit and whether such testimony or statements were admitted in the case. Such record shall be sent

1 to the District Attorneys Council which shall maintain
2 a statewide record of such information. Records
3 maintained pursuant to this paragraph shall only be
4 accessible to prosecutors and shall not be subject to
5 the Oklahoma Open Records Act. By September 15 of
6 each year, the District Attorneys Council shall
7 publish an annual report of aggregate, de-identified
8 data regarding the total number of cases tracked
9 pursuant to this section, and the number of cases
10 added during the previous fiscal year pursuant to this
11 section by each district attorney's office. A copy of
12 the report shall be distributed to the Governor, the
13 President Pro Tempore of the Senate, the Speaker of
14 the House of Representatives and the chairs of the
15 Senate and House Judiciary Committees.

16 c. For purposes of this paragraph, "jailhouse informant"
17 "informant" means a person who provides, or who the
18 prosecutor intends to provide, testimony about
19 admissions or other relevant information made to him
20 or her by the suspect or defendant ~~while both persons~~
21 ~~were detained or incarcerated in a penal institution.~~

22 B. Disclosure of Evidence by the Defendant.

23 1. Upon request of the state, the defense shall be required to
24 disclose the following:

1 a. ~~the names and addresses~~ full contact information, as
2 available to defense counsel, of witnesses which the
3 defense intends to call at trial, together with their
4 relevant, written or recorded statement, if any, or if
5 none, significant summaries of any oral statement,
6 b. ~~the name and address~~ full contact information, as
7 available to defense counsel, of any witness, other
8 than the defendant, who will be called to show that
9 the defendant was not present at the time and place
10 specified in the information or indictment, together
11 with the witness' statement to that fact,
12 c. ~~the names and addresses~~ full contact information, as
13 available to defense counsel, of any witness the
14 defendant will call, other than himself or herself,
15 for testimony relating to any mental disease, mental
16 defect, or other condition bearing upon his mental
17 state at the time the offense was allegedly committed,
18 together with the witness' statement of that fact, if
19 the statement is redacted by the court to preclude
20 disclosure of privileged communication.

21 2. A statement filed under subparagraph a, b or c of paragraph

22 1 of subsection A or B of this section is not admissible in evidence
23 at trial. Information obtained as a result of a statement filed
24 under subsection A or B of this section is not admissible in

1 evidence at trial except to refute the testimony of a witness whose
2 identity subsection A of this section requires to be disclosed.

3 3. Upon the prosecuting attorney's request after the time set
4 by the court, the defendant shall allow him or her access at any
5 reasonable times and in any reasonable manner to inspect,
6 photograph, copy, or have reasonable tests made upon any book,
7 paper, document, photograph, or tangible object which is within the
8 defendant's possession or control and which:

- 9 a. the defendant intends to offer in evidence, except to
10 the extent that it contains any communication of the
11 defendant, or
- 12 b. is a report or statement as to a physical or mental
13 examination or scientific test or experiment made in
14 connection with the particular case prepared by and
15 relating to the anticipated testimony of a person whom
16 the defendant intends to call as a witness, provided
17 the report or statement is redacted by the court to
18 preclude disclosure of privileged communication.

19 C. Continuing Duty to Disclose.

20 If, prior to or during trial, a party discovers additional
21 evidence or material ~~previously requested or ordered~~, which is
22 subject to discovery or inspection under the Oklahoma Criminal
23 Discovery Code, such party shall promptly notify the other party,

1 the attorney of the other party, or the court of the existence of
2 the additional evidence or material.

3 D. Time of Discovery.

4 1. Motions for discovery may be made at ~~the any time of the~~
5 ~~district court arraignment or thereafter; provided that requests for~~
6 ~~police reports may be made subject to the provisions of Section 258~~
7 ~~of this title. However, a request pursuant to Section 258 of this~~
8 ~~title shall be subject to the discretion of the district attorney.~~

9 All issues relating to discovery, except as otherwise provided, will
10 be completed ~~at least ten (10) not less than thirty (30)~~ days prior
11 to trial. The court may specify the time, place and manner of
12 making the discovery and may prescribe such terms and conditions as
13 are just and consistent with the provisions of this section;
14 provided, that, in the instance of conflict between any provision of
15 this section, the earlier timeframe shall be the governing
16 timeframe.

17 2. Within thirty (30) days of the filing of an endorsed
18 complaint, indictment, or information in a court of record, law
19 enforcement shall provide to the prosecuting agency the following
20 records, if such records exist:

21 a. body camera videos at the time of arrest,
22 b. vehicle-mounted camera videos at the time of arrest,
23 and
24 c. a recording of the administration of a sobriety test.

1 3. Within ninety (90) days of the filing of an endorsed
2 complaint, indictment, or information, the prosecuting agency shall
3 make available the records described in paragraph 2 of this
4 subsection to the defendant or his or her representative.

5 4. Failure of a law enforcement agency to comply with the
6 provisions of paragraph 2 of this subsection may be punished by
7 contempt.

8 5. The following information may be redacted by the prosecuting
9 agency from the records provided to a defendant or his or her
10 representative as required by the provisions of paragraph 3 of this
11 subsection; provided that, notice of such redactions are given to
12 the defendant or to his or her representative:

- 13 a. information that would violate any requirement to keep
14 certain juvenile records confidential as provided for
15 in Title 10A of the Oklahoma Statutes,
- 16 b. information that would materially compromise an
17 ongoing criminal investigation or ongoing criminal
18 prosecution other than the case involving the
19 defendant,
- 20 c. information that would undermine the assertion of a
21 privilege to keep the identity of an informant
22 confidential as provided for in Section 2510 of Title
23 12 of the Oklahoma Statutes,

1 d. information that would identify any person who
2 provides information to law enforcement or the
3 information provided by that person when that person
4 requests anonymity or where disclosure of the identity
5 of the person or the information provided could
6 reasonably be expected to threaten or endanger the
7 physical safety or property of the person or the
8 physical safety or property of others, unless said
9 person is called to testify as a witness at any
10 hearing or trial, or
11 e. require production of records or videos that fall
12 outside the scope permitted under the provisions of
13 paragraph 2 of this subsection.

14 E. Regulation of Discovery.

15 1. Protective and Modifying Orders. Upon motion of the state
16 or defendant, the court may at any time order that specified
17 disclosures be restricted, or make any other protective order. If
18 the court enters an order restricting specified disclosures, the
19 entire text of the material restricted shall be sealed and preserved
20 in the records of the court to be made available to the appellate
21 court in the event of an appeal.

22 2. Failure to Comply with a Request.

23 a. If at any time during the course of the proceedings it
24 is brought to the attention of the court that a party

1 has failed to comply with this rule, the court may
2 compel discovery or order such party to permit the
3 ~~discovery or inspection, grant continuance, or~~
4 ~~prohibit the party from introducing evidence not~~
5 ~~disclosed, or it may enter such other order as it~~
6 ~~deems just under the circumstances~~ sanctions.

7 b. If the court finds that a party violated a disclosure
8 obligation under the provisions of this section, the
9 court shall order disclosure as necessary and shall
10 impose an appropriate sanction, unless the court finds
11 that:

12 (1) the failure to comply was harmless, or
13 (2) the party could not have disclosed the
14 information earlier with due diligence and the
15 party disclosed the information immediately upon
16 its discovery.

17 c. In considering an appropriate sanction for
18 nondisclosure or untimely disclosure, a court shall
19 determine the significance of the information not
20 timely disclosed, the impact of the violation on the
21 overall administration of the case, the impact of the
22 sanction on the party and the victim, and the stage of
23 the proceedings when the party ultimately made the

1 disclosure. Available sanctions shall include, but
2 not be limited to:

3 (1) precluding or limiting a witness, the use of
4 evidence, or an argument supporting or opposing a
5 charge or defense,
6 (2) dismissing the case with or without prejudice,
7 (3) granting a continuance or declaring a mistrial,
8 if necessary, in the interests of justice,
9 (4) holding in contempt a witness, a party, or a
10 person acting under the direction or control of a
11 party,
12 (5) imposing costs of continuing the proceeding, or
13 (6) any other appropriate sanction, including
14 monetary penalties.

15 3. The discovery order shall not include discovery of legal
16 work product of either attorney which is deemed to include legal
17 research or those portions of records, correspondence, reports, or
18 memoranda which are only the opinions, theories, or conclusions of
19 the attorney or the attorney's legal staff. Any such records,
20 correspondence, reports, or memoranda that contain evidence
21 favorable to the defendant as provided for in paragraph 2 of
22 subsection A of this section shall be disclosed.

23 F. Reasonable cost of copying, duplicating, videotaping,
24 developing or any other cost associated with this Code for items

1 requested shall be paid by the party so requesting; however, any
2 item which was obtained from the defendant by the state of which
3 copies are requested by the defendant shall be paid by the state.
4 Provided, if the court determines the defendant is indigent and
5 without funds to pay the cost of reproduction of the required items,
6 the cost shall be paid by the Indigent Defender System, unless
7 otherwise provided by law.

8 SECTION 2. This act shall become effective November 1, 2026.

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