

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 OVERSIGHT
4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3742

By: Harris

7
8 PROPOSED OVERSIGHT COMMITTEE SUBSTITUTE

9 An Act relating to criminal procedure; creating The
10 Due Process Protection Act of 2026; amending 22 O.S.
11 2021, Section 258 as amended by Section 2, Chapter
12 269, O.S.L. 2022 (22 O.S. Supp. 2025, Section 258),
13 which relates to preliminary examinations and
14 proceedings; requiring the disclosure of certain
15 information to the defense; providing construing
16 provision; authorizing the court to set disclosure
17 deadline under certain circumstances; amending 22
18 O.S. 2021, Section 2002, as amended by Section 2,
19 Chapter 327, O.S.L. 2025 (22 O.S. Supp. 2025, Section
20 2002), which relates to the Oklahoma Criminal
21 Discovery Code; directing the state to disclose
22 certain evidence prior to the initial appearance of
23 defendants; requiring the disclosure of evidence
24 favorable to the defendant; requiring disclosure
despite its form; declaring the ongoing duty to
disclose information; increasing time limitation for
introducing testimony from informants and
codefendants; updating informant references;
modifying scope of certain defined term; clarifying
disclosure duties of defendants; establishing time
limitation for completing discovery issues; providing
an exception to certain witnesses; providing for
noncodification; and providing an effective date.

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

1 SECTION 1. NEW LAW A new section of law not to be
2 codified in the Oklahoma Statutes reads as follows:

3 This act shall be known and may be cited as "The Due Process
4 Protection Act of 2026".

5 SECTION 2. AMENDATORY 22 O.S. 2021, Section 258, as
6 amended by Section 2, Chapter 269, O.S.L. 2022 (22 O.S. Supp. 2025,
7 Section 258), is amended to read as follows:

8 Section 258. ~~First:~~ A. The witnesses must be examined in the
9 presence of the defendant, and may be cross-examined by the
10 defendant. On the request of the district attorney, or the
11 defendant, all the testimony must be reduced to writing in the form
12 of questions and answers and signed by the witnesses, or the same
13 may be taken in shorthand and transcribed without signing, and in
14 both cases filed with the clerk of the district court, by the
15 examining magistrate, and may be used as provided in Section 333 of
16 this title. In no case shall the county be liable for the expense
17 in reducing such testimony to writing, unless ordered by the judge
18 of a court of record.

19 ~~Second:~~ B. The district attorney may, on approval of the county
20 judge or the district judge, issue subpoenas in felony cases and
21 call witnesses before the district attorney and have them sworn and
22 their testimony reduced to writing and signed by the witnesses at
23 the cost of the county. Such examination must be confined to some
24 felony committed against the statutes of the state and triable in

1 that county, and the evidence so taken shall not be receivable in
2 any civil proceeding. A refusal to obey such subpoena or to be
3 sworn or to testify may be punished as a contempt on complaint and
4 showing to the county court, or district court, or the judges
5 thereof that proper cause exists therefor.

6 ~~Third:~~ C. No preliminary information shall be filed without the
7 consent or endorsement of the district attorney, unless the
8 defendant be taken in the commission of a felony, or the offense be
9 of such character that the accused is liable to escape before the
10 district attorney can be consulted. If the defendant is discharged
11 and the information is filed without authority from or endorsement
12 of the district attorney, the costs must be taxed to the prosecuting
13 witness, and the county shall not be liable therefor.

14 ~~Fourth:~~ D. The convening and session of a grand jury does not
15 dispense with the right of the district attorney to file complaints
16 and information, conduct preliminary hearings and other routine
17 matters, unless otherwise specifically ordered, by a written order
18 of the court convening the grand jury; made on the court's own
19 motion, or at the request of the grand jury.

20 ~~Fifth:~~ E. There shall be no preliminary examinations in
21 misdemeanor cases.

22 ~~Sixth:~~ F. A preliminary magistrate shall have the authority to
23 limit the evidence presented at the preliminary hearing to that
24 which is relevant to the issues of: (1) whether the crime was

1 committed, and (2) whether there is probable cause to believe the
2 defendant committed the crime. Once a showing of probable cause is
3 made the magistrate shall terminate the preliminary hearing and
4 enter a bindover order; provided, however, that the preliminary
5 hearing shall be terminated only if the state made available for
6 inspection law enforcement reports within the prosecuting attorney's
7 knowledge or possession at the time to the defendant five (5)
8 working days prior to the date of the preliminary hearing. The
9 district attorney shall determine whether or not to make law
10 enforcement reports available prior to the preliminary hearing. If
11 reports are made available, the district attorney shall be required
12 to provide those law enforcement reports that the district attorney
13 knows to exist at the time of providing the reports, but this does
14 not include any physical evidence which may exist in the case. This
15 provision does not require the district attorney to provide copies
16 for the defendant, but only to make them available for inspection by
17 defense counsel. In the alternative, upon agreement of the state
18 and the defendant, the court may terminate the preliminary hearing
19 once a showing of probable cause is made.

20 ~~Seventh:~~ G. 1. Upon request of the defense, the state shall
21 disclose the following not less than thirty (30) days prior to the
22 preliminary hearing:

23 a. initial and supplemental reports in the possession of
24 the district attorney,

1 b. summaries of any interviews that are intended to be
2 introduced at preliminary hearing which have not been
3 provided or summarized in reports provided to the
4 defense,

5 c. summaries of any videos that are intended to be
6 introduced at preliminary hearing which have not been
7 provided or summarized in reports provided to the
8 defense,

9 d. summaries of victim interviews which have not been
10 provided or summarized in reports provided to the
11 defense,

12 e. video or audio recordings intended to be introduced at
13 preliminary hearing of any statements made by an adult
14 victim, adult witness, or the defendant,

15 f. photographs intended to be introduced at preliminary
16 hearing,

17 g. photographic lineups intended to be introduced at
18 preliminary hearing,

19 h. deoxyribonucleic acid (DNA) reports intended to be
20 introduced at preliminary hearing, and

21 i. 9-1-1 calls intended to be introduced at preliminary
22 hearing.

23 2. Nothing in this subsection shall be construed to require the
24 disclosure of a recording of a statement of a minor.

1 3. Notwithstanding the thirty-day disclosure requirement
2 provided for in this subsection, if the preliminary hearing is set
3 in close proximity to the request date, the court may set a
4 reasonable time for disclosure under the provisions of this
5 subsection.

6 H. A preliminary magistrate shall accept into evidence as proof
7 of prior convictions a noncertified copy of a Judgment and Sentence
8 when the copy appears to the preliminary magistrate to be patently
9 accurate. The district attorney shall make a noncertified copy of
10 the Judgment and Sentence available to the defendant no fewer than
11 five (5) days prior to the hearing. If such copy is not made
12 available five (5) days prior to the hearing, the court shall
13 continue the portion of the hearing to which the copy is relevant
14 for such time as the defendant requests, not to exceed five (5) days
15 subsequent to the receipt of the copy.

16 ~~Eighth:~~ I. The purpose of the preliminary hearing is to
17 establish probable cause that a crime was committed and probable
18 cause that the defendant committed the crime.

19 ~~Ninth:~~ J. The preliminary hearing must be set within nine (9)
20 months from the initial appearance of the defendant. If
21 commencement of the preliminary hearing is delayed past the nine-
22 month time limit, a show cause hearing shall be scheduled by the
23 court to show reason for the delay. If the court fails to find good
24

1 cause for the delay, the court shall schedule a preliminary hearing
2 as soon as practicable.

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

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

7 1. Upon request of the defense, the state shall disclose the
8 following:

- 9 a. unless otherwise prohibited by law, the names and
10 addresses, phone numbers, and, if available to the
11 state, email addresses of witnesses ~~which the state~~
12 ~~intends to call at trial~~ interviewed, identified, or
13 known by any member of law enforcement or any member
14 of the office of the prosecutor during the course of
15 the prosecution, together with their relevant, written
16 or recorded statement, if any, or, if none,
17 significant summaries of any oral statement. Phone
18 numbers and email addresses of victims of domestic
19 violence, sexual assault, child abuse, stalking, or
20 violations of a protective order may be maintained by
21 the office of the district attorney and made available
22 to defense counsel upon request,
- 23 b. all law enforcement reports made in connection with
24 the particular case, including initial and

1 supplemental reports by any person or agency involved
2 in the investigation of the case, photographs,
3 diagrams, vehicle dashboard camera and body camera
4 video, and audio and video recordings,

5 c. any all written or recorded statements and the
6 substance of any all oral statements made by the
7 accused or made by a codefendant to any member of law
8 enforcement, any member of the office of the
9 prosecutor, or any other person or agency involved in
10 the investigation of the case,

11 d. any all photographs and lineup materials taken or used
12 during a lineup procedure, and any notes or reports
13 made resulting from the lineup procedure. The duty to
14 disclose lineup materials includes all pre-lineup and
15 post-lineup instructions given to the witness, as well
16 as recordings made prior to, during, or following the
17 lineup procedure, and all initial and subsequent
18 suspect descriptions obtained from eyewitnesses,

19 e. all reports or statements of examinations or tests
20 made by ~~experts~~ in connection with the particular
21 case, including results of physical or mental
22 examinations and of, preliminary or presumptive tests
23 and screening results, scientific tests, experiments,
24 or comparisons, polygraph testing, all raw data,

1 worksheets, laboratory notes, diagrams, and peer
2 review notes or reports and any such records stored
3 electronically, and all records of proficiency testing
4 relating to any testing or analysis,

5 e. any

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

11 ~~f.~~

12 g. any record of prior criminal convictions of the
13 defendant, ~~or of any codefendant~~ codefendants, and
14 witnesses that law enforcement or the prosecutor has
15 interviewed who the state intends to testify,

16 ~~g. Oklahoma State Bureau of Investigation (OSBI) rap~~
17 ~~sheet/records check~~

18 h. background checks, including criminal history, on any
19 witness listed by the state or the defense as a
20 witness who will testify at trial, as well as any
21 convictions of any witness revealed through additional
22 record checks if the defense has furnished Social
23 Security numbers or date of birth for their witnesses,
24 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. The prosecution
5 may withhold the names and identifying information of
6 any victim who contacted 9-1-1 or other emergency
7 services provided; however, an application for a
8 protective order pursuant to the provisions of
9 paragraph 1 of subsection E of this section may be
10 made. If the prosecution intends to call such person
11 as a witness at a trial or hearing, the prosecution
12 shall disclose the name and contact information, as
13 available to the state, of such witness no later than
14 thirty (30) days before such trial or hearing or as
15 soon as practicable, and

16 j. the name and work affiliation of all law enforcement
17 personnel who have evidence or information relevant to
18 any offense charged or to any potential defense
19 thereto. Unless the court rules otherwise for good
20 cause shown information, pursuant to the provisions of
21 this subparagraph, relating to undercover personnel
22 may be withheld and redacted from discovery materials
23 without the need to file a motion and upon written
24

1 notification by the prosecution that such information
2 has not been disclosed.

3 2. The state shall provide the defendant ~~any~~ all evidence in
4 its possession which may be favorable to the defendant if such
5 including, but not limited to, evidence is material to either that:

- 6 a. negates the guilt or punishment of the defendant as to
7 a charged offense,
- 8 b. reduces the degree of or mitigates the culpability of
9 the defendant as to a charged offense,
- 10 c. supports a potential defense to a charged offense,
- 11 d. impeaches the credibility of a testifying prosecution
12 witness, or
- 13 e. undermines evidence of the identity of the defendant
14 as a perpetrator of a charged offense.

15 Information under the provisions of this paragraph shall be
16 disclosed whether or not such information is recorded in tangible
17 form and irrespective of whether the prosecutor credits the
18 information.

19 The prosecutor shall have an ongoing duty to disclose such
20 information within a reasonable amount of time upon its discovery.

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

- 23 a. material and information in the possession or control
24 of members of the prosecutor's staff,

1 b. any information in the possession of law enforcement
2 agencies that regularly report to the prosecutor of
3 which the prosecutor should reasonably know, and

4 c. any information in the possession of law enforcement
5 agencies who have reported to the prosecutor with
6 reference to the particular case of which the
7 prosecutor should reasonably know.

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

12 (1) the complete criminal history of such informant,
13 including any dismissed charges,

14 (2) any deal, promise, inducement or benefit that the
15 state or law enforcement agency has made or may
16 make in the future to the ~~jailhouse~~ informant in
17 connection with the testimony of such informant,

18 (3) the specific statements or recordings made by the
19 suspect or defendant and the time, place and
20 manner of the disclosure to the ~~jailhouse~~
21 informant,

22 (4) all other filed cases in which the state intended
23 to introduce the testimony of the ~~jailhouse~~
24 informant in connection with a deal, promise,

1 inducement or benefit, the nature of the deal,
2 promise, inducement or benefit, and whether the
3 testimony was admitted in the case,

4 (5) whether at any time the jailhouse informant
5 recanted the testimony or statement, and if so, a
6 transcript or copy of such recantation, if any,
7 and

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

10 b. ~~Each district attorney's office shall maintain a~~
11 ~~central record that tracks each case in which the~~
12 ~~state intended to introduce the testimony of the~~
13 ~~jailhouse informant against a suspect or defendant in~~
14 ~~connection with a deal, promise, inducement or~~
15 ~~benefit, the nature of the deal, promise, inducement~~
16 ~~or benefit and whether such testimony or statements~~
17 ~~were admitted in the case. Such record shall be sent~~
18 ~~to the District Attorneys Council which shall maintain~~
19 ~~a statewide record of such information. Records~~
20 ~~maintained pursuant to this paragraph shall only be~~
21 ~~accessible to prosecutors and shall not be subject to~~
22 ~~the Oklahoma Open Records Act. By September 15 of~~
23 ~~each year, the District Attorneys Council shall~~
24 ~~publish an annual report of aggregate, de-identified~~

1 ~~data regarding the total number of cases tracked~~
2 ~~pursuant to this section, and the number of cases~~
3 ~~added during the previous fiscal year pursuant to this~~
4 ~~section by each district attorney's office. A copy of~~
5 ~~the report shall be distributed to the Governor, the~~
6 ~~President Pro Tempore of the Senate, the Speaker of~~
7 ~~the House of Representatives and the chairs of the~~
8 ~~Senate and House Judiciary Committees.~~

9 e. For purposes of this paragraph, "~~jailhouse informant~~"
10 "informant" means a person who provides, or who the
11 prosecutor intends to provide, testimony about
12 admissions or other relevant information made to him
13 or her by the suspect or defendant ~~while both persons~~
14 ~~were detained or incarcerated in a penal institution~~
15 and is limited to a person who:

16 (1) is a codefendant,

17 (2) was incarcerated with the defendant at any time,

18 or

19 (3) testifies with the promise or expectation of a
20 benefit.

21 c. Each district attorney's office shall maintain a
22 central record that tracks each case in which the
23 state intended to introduce the testimony of a
24 jailhouse informant against a suspect or defendant in

1 connection with a deal, promise, inducement or
2 benefit, the nature of the deal, promise, inducement
3 or benefit, and whether such testimony or statements
4 were admitted in the case. Such record shall be sent
5 to the District Attorneys Council which shall maintain
6 a statewide record of such information. Records
7 maintained pursuant to this subparagraph shall only be
8 accessible to prosecutors and shall not be subject to
9 the Oklahoma Open Records Act. By September 15 of
10 each year, the District Attorneys Council shall
11 publish an annual report of aggregate, de-identified
12 data regarding the total number of cases tracked
13 pursuant to this section, and the number of cases
14 added during the previous fiscal year pursuant to this
15 section by each district attorney's office. A copy of
16 the report shall be distributed to the Governor, the
17 President Pro Tempore of the Oklahoma State Senate,
18 the Speaker of the Oklahoma House of Representatives
19 and the chairs of the Senate and House Judiciary
20 Committees. For purposes of this subparagraph,
21 "jailhouse informant" means a person who provides, or
22 who the prosecutor intends to provide, testimony about
23 admissions or other relevant information made to him
24

1 or her by the suspect or defendant while both persons
2 were detained or incarcerated in a penal institution.

3 B. Disclosure of Evidence by the Defendant.

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

6 a. the names and, addresses, and phone numbers, and, if
7 available to the defendant, email addresses of
8 witnesses which the defense intends to call at trial,
9 together with their relevant, written or recorded
10 statement, if any, or if none, significant summaries
11 of any oral statement,

12 b. the name and, the address, phone number, and, if
13 available to the defense, email address of any
14 witness, other than the defendant, who will be called
15 to show that the defendant was not present at the time
16 and place specified in the information or indictment,
17 together with the witness' statement to that fact,

18 c. the names and, addresses, phone numbers, and, if
19 available to the defense, email addresses of any
20 witness the defendant will call, other than himself or
21 herself, for testimony relating to any mental disease,
22 mental defect, or other condition bearing upon his
23 mental state at the time the offense was allegedly
24 committed, together with the witness' statement of

1 that fact, if the statement is redacted by the court
2 to preclude disclosure of privileged communication.

3 2. A statement filed under subparagraph a, b or c of paragraph
4 1 of subsection A or B of this section is not admissible in evidence
5 at trial. Information obtained as a result of a statement filed
6 under subsection A or B of this section is not admissible in
7 evidence at trial except to refute the testimony of a witness whose
8 identity subsection A of this section requires to be disclosed.

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

15 a. the defendant intends to offer in evidence, except to
16 the extent that it contains any communication of the
17 defendant, or

18 b. is a report or statement as to a physical or mental
19 examination or scientific test or experiment made in
20 connection with the particular case prepared by and
21 relating to the anticipated testimony of a person whom
22 the defendant intends to call as a witness, provided
23 the report or statement is redacted by the court to
24 preclude disclosure of privileged communication.

1 C. Continuing Duty to Disclose.

2 If, prior to or during trial, a party discovers additional
3 evidence or material ~~previously requested or ordered~~, which is
4 subject to discovery or inspection under the Oklahoma Criminal
5 Discovery Code, such party shall promptly notify the other party,
6 the attorney of the other party, or the court of the existence of
7 the additional evidence or material.

8 D. Time of Discovery.

9 1. Motions for discovery may be made at the time of the
10 district court arraignment or thereafter; provided that requests for
11 police reports may be made subject to the provisions of Section 258
12 of this title. However, a request pursuant to Section 258 of this
13 title shall be subject to the discretion of the district attorney.
14 All issues relating to discovery, except as otherwise provided, will
15 be completed ~~at least ten (10)~~ not less than thirty (30) days prior
16 to trial. The court may specify the time, place and manner of
17 making the discovery and may prescribe such terms and conditions as
18 are just.

19 2. Upon formal arraignment and at the request of either party,
20 the judge shall issue a scheduling order setting forth timelines for
21 discovery to be exchanged between the state and the defendant.

22 3. Within thirty (30) days of the filing of an endorsed
23 complaint, indictment, or information in a court of record, law
24

1 enforcement shall provide to the prosecuting agency the following
2 records, if such records exist:

- 3 a. body camera videos at the time of arrest,
- 4 b. vehicle-mounted camera videos at the time of arrest,
- 5 and
- 6 c. a recording of the administration of a sobriety test.

7 ~~3.~~ 4. Within ninety (90) days of the filing of an endorsed
8 complaint, indictment, or information, the prosecuting agency shall
9 make available the records described in paragraph ~~2~~ 3 of this
10 subsection to the defendant or his or her representative.

11 ~~4.~~ 5. Failure of a law enforcement agency to comply with the
12 provisions of paragraph ~~2~~ 3 of this subsection may be punished by
13 contempt.

14 ~~5.~~ 6. The following information may be redacted by the
15 prosecuting agency from the records provided to a defendant or his
16 or her representative as required by the provisions of paragraph ~~3~~ 4
17 of this subsection; provided that, notice of such redactions are
18 given to the defendant or to his or her representative:

- 19 a. information that would violate any requirement to keep
20 certain juvenile records confidential as provided for
21 in Title 10A of the Oklahoma Statutes,
- 22 b. information that would materially compromise an
23 ongoing criminal investigation or ongoing criminal

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1 prosecution other than the case involving the
2 defendant,

3 c. information that would undermine the assertion of a
4 privilege to keep the identity of an informant
5 confidential as provided for in Section 2510 of Title
6 12 of the Oklahoma Statutes,

7 d. information that would identify any person who
8 provides information to law enforcement or the
9 information provided by that person when that person
10 requests anonymity or where disclosure of the identity
11 of the person or the information provided could
12 reasonably be expected to threaten or endanger the
13 physical safety or property of the person or the
14 physical safety or property of others, unless said
15 person is called to testify as a witness at any
16 hearing or trial, or

17 e. require production of records or videos that fall
18 outside the scope permitted under the provisions of
19 paragraph ~~2~~ 3 of this subsection.

20 E. Regulation of Discovery.

21 1. Protective and Modifying Orders. Upon motion of the state
22 or defendant, the court may at any time order that specified
23 disclosures be restricted, or make any other protective order. If
24 the court enters an order restricting specified disclosures, the

1 entire text of the material restricted shall be sealed and preserved
2 in the records of the court to be made available to the appellate
3 court in the event of an appeal.

4 2. Failure to Comply with a Request. If at any time during the
5 course of the proceedings it is brought to the attention of the
6 court that a party has failed to comply with this rule, the court
7 may compel discovery or order such party to permit the discovery or
8 inspection, grant continuance, or prohibit the party from
9 introducing evidence not disclosed, or it may enter such other order
10 as it deems just under the circumstances. The court may impose any
11 approximate remedy to cure the failure to comply.

12 3. The discovery order shall not include discovery of legal
13 work product of either attorney which is deemed to include legal
14 research or those portions of records, correspondence, reports, or
15 memoranda which are only the opinions, theories, or conclusions of
16 the attorney or the attorney's legal staff.

17 F. Reasonable cost of copying, duplicating, videotaping,
18 developing or any other cost associated with this Code for items
19 requested shall be paid by the party so requesting; however, any
20 item which was obtained from the defendant by the state of which
21 copies are requested by the defendant shall be paid by the state.
22 Provided, if the court determines the defendant is indigent and
23 without funds to pay the cost of reproduction of the required items,
24

1 the cost shall be paid by the Indigent ~~Defender~~ Defense System,
2 unless otherwise provided by law.

3 SECTION 4 This act shall become effective November 1, 2026.

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5 60-2-16836 GRS 03/02/26

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