

1 STATE OF OKLAHOMA

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

3 POLICY COMMITTEE  
4 RECOMMENDATION

5 FOR

6 HOUSE BILL NO. 3742

7 By: Harris

8 POLICY COMMITTEE RECOMMENDATION

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.

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

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

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

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

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

17 b. all law enforcement reports made in connection with  
18 the particular case, including initial and  
19 supplemental reports by any person or agency involved  
20 in the investigation of the case, photographs,  
21 diagrams, vehicle dashboard camera and body camera  
22 video, audio and video recordings, and any other  
23 tangible means of memorializing information,

24

1 c. ~~any~~ all written or recorded statements and the  
2 substance of ~~any~~ all oral statements made by the  
3 accused or made by a codefendant to any member of law  
4 enforcement, any member of the office of the  
5 prosecutor, or any other person or agency involved in  
6 the investigation of the case,

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

19 e. any 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, including all raw

1 data, 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. any record~~

12 g. all records 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 in the course of the investigation of the  
16 case,

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

19 h. full background check, including criminal history, on  
20 any witness listed by the state or the defense as a  
21 witness who will testify at trial, as well as any  
22 convictions of any witness revealed through additional  
23 record checks if the defense has furnished Social  
24 Security numbers or date of birth for their witnesses,

1           except OSBI rap sheet/record checks shall not provide  
2           date of birth, Social Security number, home phone  
3           number or address,

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

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

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

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

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

21 Information under the provisions of this paragraph shall be  
22 disclosed whether or not such information is recorded in tangible  
23 form and irrespective of whether the prosecutor credits the  
24 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,

24

1 (3) the specific statements or recordings made by the  
2 suspect or defendant and the time, place and  
3 manner of the disclosure to the ~~jailhouse~~  
4 informant,

5 (4) all other filed cases in which the state intended  
6 to introduce the testimony of the ~~jailhouse~~  
7 informant in connection with a deal, promise,  
8 inducement or benefit, the nature of the deal,  
9 promise, inducement or benefit, and whether the  
10 testimony was admitted in the case,

11 (5) whether at any time the ~~jailhouse~~ informant  
12 recanted the testimony or statement, and if so, a  
13 transcript or copy of such recantation, if any,  
14 and

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

17 b. Each district attorney's office shall maintain a  
18 central record that tracks each case in which the  
19 state intended to introduce the testimony of the  
20 ~~jailhouse~~ informant against a suspect or defendant in  
21 connection with a deal, promise, inducement or  
22 benefit, the nature of the deal, promise, inducement  
23 or benefit and whether such testimony or statements  
24 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,  
24

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  
24

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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