

<DateSubmitted>

HOUSE OF REPRESENTATIVES
CONFERENCE COMMITTEE REPORT

Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB1563

By: Duel of the House and Howard of the Senate

Title: Criminal procedure; specifying requirements for issuing criminal subpoenas for law enforcement records; codification; effective date.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its amendments; and
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

House Action _____ Date _____ Senate Action _____ Date _____

SENATE CONFEREES

Howard	_____
Gollihare	_____
Jech	_____
Rosino	_____
Thompson	_____
Brooks	_____

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1563

By: Duel of the House

and

Howard of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to criminal procedure; amending 22 O.S. 2021, Section 710, which relates to the issuance subpoena duces tecum; authorizing the issuance of subpoena duces tecum to businesses and commercial entities; directing court clerks to issue subpoenas; allowing attorneys to issue and sign subpoenas on behalf of a court; providing construing provision related to interviews of victims; amending 22 O.S. 2021, Section 2002, which relates to the Oklahoma Criminal Discovery Code; directing law enforcement to provide certain records to prosecuting agencies within certain time frame; requiring prosecuting agencies to make said records available to defendants; providing penalty for failure to provide records; authorizing the redaction of certain information from records; requiring notice to defendants of said redactions; and providing an effective date.

SECTION 1. AMENDATORY 22 O.S. 2021, Section 710, is amended to read as follows:

1 Section 710. A. If the books, papers or documents be required,
2 a direction to the following effect must be continued in the
3 subpoena:

4 And you are required also to bring with you the following:
5 (Describe intelligently the books, papers or documents required).

6 B. A subpoena duces tecum may be issued by a defendant to a
7 business or commercial entity for production of books, papers,
8 documents, or recordings to be provided to the defendant at a time
9 and place certain.

10 C. The court clerk shall issue a subpoena duces tecum
11 authorized by the provisions of subsection B of this section,
12 signed, and sealed but otherwise blank, to a party requesting it,
13 who shall complete the subpoena before service. As an officer of
14 the court, an attorney authorized to practice law in this state may
15 also issue and sign a subpoena duces tecum authorized by the
16 provisions of subsection B of this section on behalf of a court in
17 this state.

18 D. A subpoena duces tecum, authorized by the provisions of this
19 section, shall not be construed to allow a defendant to access
20 information or recordings related to interviews of victims in
21 connection with the particular case.

22 SECTION 2. AMENDATORY 22 O.S. 2021, Section 2002, is
23 amended to read as follows:

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

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

- 3 a. the names and addresses of witnesses which the state
4 intends to call at trial, together with their
5 relevant, written or recorded statement, if any, or if
6 none, significant summaries of any oral statement,
- 7 b. law enforcement reports made in connection with the
8 particular case,
- 9 c. any written or recorded statements and the substance
10 of any oral statements made by the accused or made by
11 a codefendant,
- 12 d. any reports or statements made by experts in
13 connection with the particular case, including results
14 of physical or mental examinations and of scientific
15 tests, experiments, or comparisons,
- 16 e. any books, papers, documents, photographs, tangible
17 objects, buildings or places which the prosecuting
18 attorney intends to use in the hearing or trial or
19 which were obtained from or belong to the accused,
- 20 f. any record of prior criminal convictions of the
21 defendant, or of any codefendant, and
- 22 g. Oklahoma State Bureau of Investigation (OSBI) rap
23 sheet/records check on any witness listed by the state
24 or the defense as a witness who will testify at trial,

1 as well as any convictions of any witness revealed
2 through additional record checks if the defense has
3 furnished Social Security numbers or date of birth for
4 their witnesses, except OSBI rap sheet/record checks
5 shall not provide date of birth, Social Security
6 number, home phone number or address.

7 2. The state shall provide the defendant any evidence favorable
8 to the defendant if such evidence is material to either guilt or
9 punishment.

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

- 12 a. material and information in the possession or control
13 of members of the prosecutor's staff,
- 14 b. any information in the possession of law enforcement
15 agencies that regularly report to the prosecutor of
16 which the prosecutor should reasonably know, and
- 17 c. any information in the possession of law enforcement
18 agencies who have reported to the prosecutor with
19 reference to the particular case of which the
20 prosecutor should reasonably know.

- 21 4. a. If the state intends to introduce testimony of a
22 jailhouse informant, the state shall disclose at least
23 ten (10) days prior to trial:
24

- (1) the complete criminal history of such informant, including any dismissed charges,
- (2) any deal, promise, inducement or benefit that the state or law enforcement agency has made or may make in the future to the jailhouse informant in connection with the testimony of such informant,
- (3) the specific statements or recordings made by the suspect or defendant and the time, place and manner of the disclosure to the jailhouse 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,
- (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

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

- 22 c. For purposes of this paragraph, "jailhouse informant"
23 means a person who provides, or who the prosecutor
24 intends to provide, testimony about admissions or

1 other relevant information made to him or her by the
2 suspect or defendant while both persons were detained
3 or incarcerated in a penal institution.

4 B. Disclosure of Evidence by the Defendant.

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

- 7 a. the names and addresses of witnesses which the defense
8 intends to call at trial, together with their
9 relevant, written or recorded statement, if any, or if
10 none, significant summaries of any oral statement,
11 b. the name and address of any witness, other than the
12 defendant, who will be called to show that the
13 defendant was not present at the time and place
14 specified in the information or indictment, together
15 with the witness' statement to that fact,
16 c. the names and addresses of any witness the defendant
17 will call, other than himself, for testimony relating
18 to any mental disease, mental defect, or other
19 condition bearing upon his mental state at the time
20 the offense was allegedly committed, together with the
21 witness' statement of that fact, if the statement is
22 redacted by the court to preclude disclosure of
23 privileged communication.
24

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

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

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

23 C. Continuing Duty to Disclose.
24

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

7 D. Time of Discovery.

8 1. Motions for discovery may be made at the time of the
9 district court arraignment or thereafter; provided that requests for
10 police reports may be made subject to the provisions of Section 258
11 of this title. However, a request pursuant to Section 258 of this
12 title shall be subject to the discretion of the district attorney.
13 All issues relating to discovery, except as otherwise provided, will
14 be completed at least ten (10) days prior to trial. The court may
15 specify the time, place and manner of making the discovery and may
16 prescribe such terms and conditions as are just.

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, or
9 e. Require production of records or videos that fall
10 outside the scope permitted under the provisions of
11 paragraph 2 of this subsection.

12 E. Regulation of Discovery.

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

20 2. Failure to Comply with a Request. If at any time during the
21 course of the proceedings it is brought to the attention of the
22 court that a party has failed to comply with this rule, the court
23 may order such party to permit the discovery or inspection, grant
24 continuance, or prohibit the party from introducing evidence not

1 disclosed, or it may enter such other order as it deems just under
2 the circumstances.

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

8 F. Reasonable cost of copying, duplicating, videotaping,
9 developing or any other cost associated with this Code for items
10 requested shall be paid by the party so requesting; however, any
11 item which was obtained from the defendant by the state of which
12 copies are requested by the defendant shall be paid by the state.
13 Provided, if the court determines the defendant is indigent and
14 without funds to pay the cost of reproduction of the required items,
15 the cost shall be paid by the Indigent Defender System, unless
16 otherwise provided by law.

17 SECTION 3. This act shall become effective November 1, 2025.
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