

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 CONFERENCE COMMITTEE  
4 SUBSTITUTE  
5 FOR ENGROSSED  
6 HOUSE BILL NO. 1037

By: Faught of the House

and

Holt and Quinn of the  
Senate

8  
9  
10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to the Oklahoma Open Records Act;  
12 amending 51 O.S. 2011, Sections 24A.5 and 24A.8, as  
13 amended by Section 3, Chapter 266, O.S.L. 2014 (51  
14 O.S. Supp. 2014, Section 24A.8), which relate to the  
15 Oklahoma Open Records Act; updating statutory  
16 citations; providing additional exemption; directing  
17 law enforcement agencies to release certain audio and  
18 video recordings; allowing for the redaction of audio  
19 and video recordings that depict or identify certain  
20 information; providing procedures for delaying the  
21 release of audio and video recordings; providing for  
22 appeals; requiring the release of audio and video  
23 recordings after certain amount of time has expired;  
24 prohibiting law enforcement from denying access to  
previously released records; and declaring an  
emergency.

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

SECTION 1. AMENDATORY 51 O.S. 2011, Section 24A.5, is  
amended to read as follows:

1 Section 24A.5 All records of public bodies and public officials  
2 shall be open to any person for inspection, copying, or mechanical  
3 reproduction during regular business hours; provided:

4 1. The Oklahoma Open Records Act, Sections 24A.1 through ~~24A.28~~  
5 24A.30 of this title, does not apply to records specifically  
6 required by law to be kept confidential including:

- 7 a. records protected by a state evidentiary privilege  
8 such as the attorney-client privilege, the work  
9 product immunity from discovery and the identity of  
10 informer privileges,
- 11 b. records of what transpired during meetings of a public  
12 body lawfully closed to the public such as executive  
13 sessions authorized under the Oklahoma Open Meeting  
14 Act, ~~Section 301 et seq. of Title 25 of the Oklahoma~~  
15 ~~Statutes,~~
- 16 c. personal information within driver records as defined  
17 by the Driver's Privacy Protection Act, 18 United  
18 States Code, Sections 2721 through 2725, ~~or~~
- 19 d. information in the files of the Board of Medicolegal  
20 Investigations obtained pursuant to Sections 940 and  
21 941 of Title 63 of the Oklahoma Statutes that may be  
22 hearsay, preliminary unsubstantiated investigation-  
23 related findings, or confidential medical  
24 information, or

1           e. any test forms, question banks and answer keys  
2           developed for state licensure examinations, but  
3           specifically excluding test preparation materials or  
4           study guides;

5           2. Any reasonably segregable portion of a record containing  
6 exempt material shall be provided after deletion of the exempt  
7 portions; provided however, the Department of Public Safety shall  
8 not be required to assemble for the requesting person specific  
9 information, in any format, from driving records relating to any  
10 person whose name and date of birth or whose driver license number  
11 is not furnished by the requesting person.

12           The Oklahoma State Bureau of Investigation shall not be required  
13 to assemble for the requesting person any criminal history records  
14 relating to persons whose names, dates of birth, and other  
15 identifying information required by the Oklahoma State Bureau of  
16 Investigation pursuant to administrative rule are not furnished by  
17 the requesting person;

18           3. Any request for a record which contains individual records  
19 of persons, and the cost of copying, reproducing or certifying each  
20 individual record is otherwise prescribed by state law, the cost may  
21 be assessed for each individual record, or portion thereof requested  
22 as prescribed by state law. Otherwise, a public body may charge a  
23 fee only for recovery of the reasonable, direct costs of record  
24 copying, or mechanical reproduction. Notwithstanding any state or

1 local provision to the contrary, in no instance shall the record  
2 copying fee exceed twenty-five cents (\$0.25) per page for records  
3 having the dimensions of eight and one-half (8 1/2) by fourteen (14)  
4 inches or smaller, or a maximum of One Dollar (\$1.00) per copied  
5 page for a certified copy. However, if the request:

- 6 a. is solely for commercial purpose, or
- 7 b. would clearly cause excessive disruption of the  
8 essential functions of the public body,

9 then the public body may charge a reasonable fee to recover the  
10 direct cost of record search and copying; however, publication in a  
11 newspaper or broadcast by news media for news purposes shall not  
12 constitute a resale or use of a record for trade or commercial  
13 purpose and charges for providing copies of electronic data to the  
14 news media for a news purpose shall not exceed the direct cost of  
15 making the copy. The fee charged by the Department of Public Safety  
16 for a copy in a computerized format of a record of the Department  
17 shall not exceed the direct cost of making the copy unless the fee  
18 for the record is otherwise set by law.

19 Any public body establishing fees under this act shall post a  
20 written schedule of the fees at its principal office and with the  
21 county clerk.

22 In no case shall a search fee be charged when the release of  
23 records is in the public interest, including, but not limited to,  
24 release to the news media, scholars, authors and taxpayers seeking

1 to determine whether those entrusted with the affairs of the  
2 government are honestly, faithfully, and competently performing  
3 their duties as public servants.

4 The fees shall not be used for the purpose of discouraging  
5 requests for information or as obstacles to disclosure of requested  
6 information-;

7 4. The land description tract index of all recorded instruments  
8 concerning real property required to be kept by the county clerk of  
9 any county shall be available for inspection or copying in  
10 accordance with the provisions of the Oklahoma Open Records Act;  
11 provided, however, the index shall not be copied or mechanically  
12 reproduced for the purpose of sale of the information-;

13 5. A public body must provide prompt, reasonable access to its  
14 records but may establish reasonable procedures which protect the  
15 integrity and organization of its records and to prevent excessive  
16 disruptions of its essential functions-; and

17 6. A public body shall designate certain persons who are  
18 authorized to release records of the public body for inspection,  
19 copying, or mechanical reproduction. At least one person shall be  
20 available at all times to release records during the regular  
21 business hours of the public body.

22 SECTION 2. AMENDATORY 51 O.S. 2011, Section 24A.8, as  
23 amended by Section 3, Chapter 266, O.S.L. 2014 (51 O.S. Supp. 2014,  
24 Section 24A.8), is amended to read as follows:

1 Section 24A.8 A. Law enforcement agencies shall make available  
2 for public inspection and copying, if kept, the following records:

- 3 1. An arrestee description, including the name, date of birth,  
4 address, race, sex, physical description, and occupation of the  
5 arrestee;
- 6 2. Facts concerning the arrest, including the cause of arrest  
7 and the name of the arresting officer;
- 8 3. A chronological list of all incidents, including initial  
9 offense report information showing the offense, date, time, general  
10 location, officer, and a brief summary of what occurred;
- 11 4. Radio logs, including a chronological listing of the calls  
12 dispatched;
- 13 5. Conviction information, including the name of any person  
14 convicted of a criminal offense;
- 15 6. Disposition of all warrants, including orders signed by a  
16 judge of any court commanding a law enforcement officer to arrest a  
17 particular person;
- 18 7. A crime summary, including an agency summary of crimes  
19 reported and public calls for service by classification or nature  
20 and number;
- 21 8. Jail registers, including jail blotter data or jail booking  
22 information recorded on persons at the time of incarceration showing  
23 the name of each prisoner with the date and cause of commitment, the  
24 authority committing the prisoner, whether committed for a criminal

1 offense, a description of the prisoner, and the date or manner of  
2 discharge or escape of the prisoner; ~~and~~

3 9. Audio and video recordings from recording equipment attached  
4 to law enforcement vehicles ~~and/or~~ or associated audio recordings  
5 from recording equipment on the person of a law enforcement officer;  
6 provided, the law enforcement agency may, before releasing any audio  
7 or video recording provided for in this paragraph, redact or obscure  
8 specific portions of the recording which:

- 9 a. depict the death of a person or a dead body, unless  
10 the death was effected by a law enforcement officer,
- 11 b. depict ~~any person who is nude or~~ nudity,
- 12 c. would identify minors under the age of sixteen (16)  
13 years. ~~Provided further, law enforcement agencies may~~  
14 ~~redact or obscure specific portions of audio and video~~  
15 ~~recordings which~~ or would undermine any requirement to  
16 keep certain juvenile records confidential as provided  
17 for in Title 10A of the Oklahoma Statutes,
- 18 d. depict acts of severe violence resulting in great  
19 bodily injury, as defined in Section 11-904 of Title  
20 47 of the Oklahoma Statutes, against persons that are  
21 clearly visible, unless the act of severe violence was  
22 effected by a law enforcement officer,
- 23 e. depict great bodily injury, as defined in Section 11-  
24 904 of Title 47 of the Oklahoma Statutes, unless the

1 great bodily injury was effected by a law enforcement  
2 officer,

3 f. include personal medical information that is not  
4 already public,

5 g. would undermine the assertion of a privilege provided  
6 in Section 1-109 or Section 3-428 of Title 43A of the  
7 Oklahoma Statutes for detention or transportation for  
8 mental health evaluation or treatment or drug or  
9 alcohol detoxification purposes,

10 h. include personal information other than the name or  
11 license plate number of a person not arrested, cited,  
12 charged or issued a written warning. Such personal  
13 information shall include any government-issued  
14 identification number, date of birth, address or  
15 financial information, or

16 i. reveal the identity of law enforcement officers who  
17 have become subject to internal investigation by the  
18 law enforcement agency ~~until~~ as a result of an event  
19 depicted in the recording. The option to protect the  
20 identity of a law enforcement officer shall not be  
21 available to the law enforcement agency after the law  
22 enforcement agency ~~concludes~~ has concluded the  
23 investigation and rendered a decision as to final  
24 disciplinary action. At ~~the conclusion of the~~ such



1 time when an investigation has concluded and the law  
2 enforcement agency has rendered its decision as to  
3 final disciplinary process action, the ~~unedited audio~~  
4 ~~and video~~ portions of the recordings previously  
5 withheld as provided for in this subparagraph shall be  
6 available for public inspection and copying. The  
7 ~~unedited~~ audio and video recordings withheld as  
8 provided for in this subparagraph shall be available  
9 for public inspection and copying before the  
10 conclusion of the investigation ~~and disciplinary~~  
11 ~~process~~ if the investigation ~~and disciplinary process~~  
12 lasts for an unreasonable amount of time; and

13 10. a. Audio and video recordings from recording equipment  
14 attached to the person of a law enforcement officer  
15 that depict:

- 16 (1) the use of any physical force or violence by a  
17 law enforcement officer,  
18 (2) pursuits of any kind,  
19 (3) traffic stops,  
20 (4) any person being arrested, cited, charged or  
21 issued a written warning,  
22 (5) events that directly led to any person being  
23 arrested, cited, charged or receiving a written  
24 warning,

1           (6) detentions of any length for the purpose of  
2           investigation,

3           (7) any exercise of authority by a law enforcement  
4           officer that deprives a citizen of his or her  
5           liberty,

6           (8) actions by a law enforcement officer that have  
7           become the cause of an investigation or charges  
8           being filed,

9           (9) recordings in the public interest that may  
10           materially aid a determination of whether law  
11           enforcement officers are appropriately performing  
12           their duties as public servants, or

13           (10) any contextual events occurring before or after  
14           the events depicted in divisions (1) through (9)  
15           of this subparagraph.

16        b. Notwithstanding the provisions of subparagraph a of  
17        this paragraph, the law enforcement agency may, before  
18        releasing any audio or video recording provided for in  
19        this paragraph, redact or obscure specific portions of  
20        the recording that:

21           (1) depict the death of a person or a dead body,  
22           unless the death was effected by a law  
23           enforcement officer,

24           (2) depict nudity,

1           (3) would identify minors under the age of sixteen  
2           (16) years or would undermine any requirement to  
3           keep certain juvenile records confidential as  
4           provided for in Title 10A of the Oklahoma  
5           Statutes,

6           (4) depict acts of severe violence resulting in great  
7           bodily injury, as defined in Section 11-904 of  
8           Title 47 of the Oklahoma Statutes, against  
9           persons that are clearly visible, unless the act  
10           of severe violence was effected by a law  
11           enforcement officer,

12           (5) depict great bodily injury, as defined in Section  
13           11-904 of Title 47 of the Oklahoma Statutes,  
14           unless the great bodily injury was effected by a  
15           law enforcement officer,

16           (6) include personal medical information that is not  
17           already public,

18           (7) undermine the assertion of a privilege as  
19           provided in Section 1-109 or Section 3-428 of  
20           Title 43A of the Oklahoma Statutes for detention  
21           or transportation for mental health evaluation or  
22           treatment or drug or alcohol detoxification  
23           purposes,

1           (8) identify alleged victims of sex crimes or  
2           domestic violence,

3           (9) identify any person who provides information to  
4           law enforcement or the information provided by  
5           that person when that person requests anonymity  
6           or where disclosure of the identity of the person  
7           or the information provided could reasonably be  
8           expected to threaten or endanger the physical  
9           safety or property of the person or the physical  
10           safety or property of others,

11           (10) undermine the assertion of a privilege to keep  
12           the identity of an informer confidential as  
13           provided for in Section 2510 of Title 12 of the  
14           Oklahoma Statutes,

15           (11) include personal information other than the name  
16           or license plate number of a person not  
17           officially arrested, cited, charged or issued a  
18           written warning. Such personal information shall  
19           include any government-issued identification  
20           number, date of birth, address or financial  
21           information,

22           (12) include information that would materially  
23           compromise an ongoing criminal investigation or  
24           ongoing criminal prosecution, provided that:

1                   (a) ten (10) days following the formal  
2                   arraignment or initial appearance, whichever  
3                   occurs first, of a person charged in the  
4                   case in question, the recording shall be  
5                   made available for public inspection and  
6                   copying with no redaction of the portions  
7                   that were temporarily withheld by reliance  
8                   on this division. Provided, before  
9                   potential release of a recording as provided  
10                  for in this subdivision, the prosecutor or  
11                  legal representative of the person charged  
12                  may request from the appropriate district  
13                  court an extension of time during which the  
14                  recording may be withheld under the  
15                  provisions of this division. When a request  
16                  for an extension of time has been filed with  
17                  the court, the recording in question may be  
18                  withheld until the court has issued a  
19                  ruling. Such requests for an extension of  
20                  the time during which the recording may be  
21                  withheld may be made on the grounds that  
22                  release of the recording will materially  
23                  compromise an ongoing criminal investigation  
24                  or criminal prosecution or on the grounds

1 that release of the recording will  
2 materially compromise the right of an  
3 accused to a fair trial that has yet to  
4 begin. Courts considering such requests  
5 shall conduct a hearing and consider whether  
6 the interests of the public outweigh the  
7 interests asserted by the parties. In  
8 response to such requests, the court shall  
9 order that the recording be made available  
10 for public inspection and copying with no  
11 redaction of the portions that were  
12 temporarily withheld by reliance on this  
13 division or order an extension of time  
14 during which the recording may be withheld  
15 under the provisions of this division.  
16 Provided further, each such time extension  
17 shall only be ordered by the court for an  
18 additional six-month period of time or less  
19 and cumulative time extensions shall not add  
20 up to more than eighteen (18) months, or  
21 (b) in the event that one hundred twenty (120)  
22 days expire from the date of the events  
23 depicted in the recording without any person  
24 being criminally charged in the case in

question and release of a recording or  
portions of a recording have been denied on  
the grounds provided for in this division,  
an appeal of such denial may be made to the  
appropriate district court. In situations  
where one hundred twenty (120) days have  
expired since the creation of the recording,  
criminal charges have not been filed against  
a person and the recording is being withheld  
on the grounds provided for in this  
division, courts considering appeals to the  
use of the provisions of this division for  
temporarily withholding a recording shall  
conduct a hearing and consider whether the  
interests of the public outweigh the  
interests of the parties protected by this  
division. In response to such appeals, the  
district court shall order that the  
recording be made available for public  
inspection and copying with no redaction of  
the portions that were temporarily withheld  
by reliance on this division or order an  
extension of time during which the recording  
may be withheld under the provisions of this

1 division. An order granting an extension of  
2 time shall be applicable to the recording  
3 against all appellants for the duration of  
4 the extension. Provided, each such time  
5 extension shall only be ordered by the  
6 district court for an additional twelve-  
7 month period of time or less and cumulative  
8 time extensions shall not add up to more  
9 than three (3) years. Provided, charges  
10 being filed against a person in the case in  
11 question automatically cancels any extension  
12 of time. A new request for an extension of  
13 time following an arraignment or initial  
14 appearance may be requested by the parties  
15 on the grounds and under the terms provided  
16 for in subdivision (a) of this division.

17 The options presented in this division to  
18 potentially withhold a recording or portions of a  
19 recording on the grounds provided for in this  
20 division shall expire in totality four (4) years  
21 after the recording was made at which time all  
22 recordings previously withheld on the grounds  
23 provided for in this division shall be made  
24 available for public inspection and copying, or



1           (13) reveal the identity of law enforcement officers  
2           who have become subject to internal investigation  
3           by the law enforcement agency as a result of an  
4           event depicted in the recording. The option to  
5           protect the identity of a law enforcement officer  
6           shall not be available to the law enforcement  
7           agency after the law enforcement agency has  
8           concluded the investigation and rendered a  
9           decision as to final disciplinary action. At  
10          such time when an investigation has concluded and  
11          the law enforcement agency has rendered its  
12          decision as to final disciplinary action, the  
13          portions of the recordings previously withheld as  
14          provided for in this division shall be available  
15          for public inspection and copying. The audio and  
16          video recordings withheld on the grounds provided  
17          for in this division shall be available for  
18          public inspection and copying before the  
19          conclusion of the investigation if the  
20          investigation lasts for an unreasonable amount of  
21          time.

22           B. Except for the records listed in subsection A of this  
23 section and those made open by other state or local laws, law  
24 enforcement agencies may deny access to law enforcement records

1 except where a court finds that the public interest or the interest  
2 of an individual outweighs the reason for denial. The provisions of  
3 this section shall not operate to deny access to law enforcement  
4 records if such records have been previously made available to the  
5 public as provided in the Oklahoma Open Records Act or as otherwise  
6 provided by law.

7 C. Nothing contained in this section imposes any new  
8 recordkeeping requirements. Law enforcement records shall be kept  
9 for as long as is now or may hereafter be specified by law. Absent  
10 a legal requirement for the keeping of a law enforcement record for  
11 a specific time period, law enforcement agencies shall maintain  
12 their records for so long as needed for administrative purposes.

13 D. Registration files maintained by the Department of  
14 Corrections pursuant to the provisions of the Sex Offenders  
15 Registration Act shall be made available for public inspection in a  
16 manner to be determined by the Department.

17 E. The Council on Law Enforcement Education and Training  
18 (C.L.E.E.T.) shall keep confidential all records it maintains  
19 pursuant to Section 3311 of Title 70 of the Oklahoma Statutes and  
20 deny release of records relating to any employed or certified full-  
21 time officer, reserve officer, retired officer or other person;  
22 teacher lesson plans, tests and other teaching materials; and  
23 personal communications concerning individual students except under  
24 the following circumstances:

- 1        1. To verify the current certification status of any peace  
2 officer;
- 3        2. As may be required to perform the duties imposed by Section  
4 3311 of Title 70 of the Oklahoma Statutes;
- 5        3. To provide to any peace officer copies of the records of  
6 that peace officer upon submitting a written request;
- 7        4. To provide, upon written request, to any law enforcement  
8 agency conducting an official investigation, copies of the records  
9 of any peace officer who is the subject of such investigation;
- 10       5. To provide final orders of administrative proceedings where  
11 an adverse action was taken against a peace officer; and
- 12       6. Pursuant to an order of the district court of the State of  
13 Oklahoma.

14       F. The Department of Public Safety shall keep confidential:

- 15       1. All records it maintains pursuant to its authority under  
16 Title 47 of the Oklahoma Statutes relating to the Oklahoma Highway  
17 Patrol Division, the Communications Division, and other divisions of  
18 the Department relating to:
  - 19           a. training, lesson plans, teaching materials, tests, and  
20           test results,
  - 21           b. policies, procedures, and operations, any of which are  
22           of a tactical nature, and
  - 23           c. the following information from radio logs:
    - 24               (1) telephone numbers,

- 1 (2) addresses other than the location of incidents to  
2 which officers are dispatched, and  
3 (3) personal information which is contrary to the  
4 provisions of the Driver's Privacy Protection  
5 Act, 18 United States Code, Sections 2721 through  
6 2725; and

7 2. For the purpose of preventing identity theft and invasion of  
8 law enforcement computer systems, except as provided in Title 47 of  
9 the Oklahoma Statutes, all driving records.

10 SECTION 3. It being immediately necessary for the preservation  
11 of the public peace, health and safety, an emergency is hereby  
12 declared to exist, by reason whereof this act shall take effect and  
13 be in full force from and after its passage and approval.

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15 55-1-7471 GRS 05/08/15  
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