An Act

ENROLLED HOUSE
BILL NO. 2676

By: Walker, Matthews and Hoskin of the House

and

Holt of the Senate

An Act relating to records of the Department of Public Safety; amending 47 O.S. 2011, Section 2-110, as last amended by Section 24, Chapter 15, O.S.L. 2013 (47 O.S. Supp. 2013, Section 2-110), which relates to the Department of Public Safety; providing for construction of certain provisions to make certain records not confidential; amending 51 O.S. 2011, Sections 24A.3 and 24A.8, which relate to the Oklahoma Open Records Act; modifying definition; requiring certain recordings of law enforcement agencies be available for public inspection; providing procedures; and providing an effective date.

SUBJECT: Department of Public Safety and law enforcement records

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

SECTION 1. AMENDATORY 47 O.S. 2011, Section 2-110, as last amended by Section 24, Chapter 15, O.S.L. 2013 (47 O.S. Supp. 2013, Section 2-110), is amended to read as follows:

Section 2-110. A. Officers and employees of the Department of Public Safety designated by the Commissioner, for the purpose of administering the motor vehicle laws, are authorized to administer oaths and acknowledge signatures and shall do so without fee.

B. The Commissioner and such officers of the Department as the Commissioner may designate are hereby authorized to prepare under the seal of the Department and deliver upon request a certified copy of any record of the Department, charging a fee of Three Dollars ($3.00) for each record so certified, and every such certified copy shall be admissible in any proceeding in any court in like manner as the original thereof. A certification fee shall be charged:

1. Only if the person requesting the record specifically requests that the record be certified; and

2. In addition to the copying and reproduction fees provided by the Oklahoma Open Records Act or any other applicable law.

C. The Commissioner and any other officers of the Department as the Commissioner may designate are hereby authorized to provide a copy of any record required to be maintained by the Department at no charge to any of the following government agencies when requested in the performance of official governmental duties:

1. The driver license agency of any other state;

2. Any court, district attorney or municipal prosecutor in this state or any other state;

3. Any law enforcement agency in this state or any other state or any federal agency empowered by law to make arrests for public offenses;

4. Any public school district in this state for purposes of providing the Motor Vehicle Report of a currently employed school bus driver or person making application for employment as a school bus driver;

5. The Department of Human Services for the purpose of providing the Motor Vehicle Report to ascertain the suitability of any person being considered by the Department of Human Services for placement of a child in foster care or for adoption of the child;

6. The Office of Juvenile Affairs for the purpose of providing the Motor Vehicle Report to ascertain the suitability of any person being considered by the Office of Juvenile Affairs for placement of a child in foster care;

7. Any nonprofit provider exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986 and contracted by the Developmental Disabilities Services Division of the Oklahoma Department of Human Services; or

8. Any state agency in this state.

D. Any record required to be maintained by the Department may be released to any other entity free of charge when the release of the record would be for the benefit of the public, as determined by the Commissioner or a designee of the Commissioner.

E. The following records shall be provided by the Department to any authorized recipient, pursuant to the provisions of the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725, upon payment of the appropriate fees for the records:

1. A Motor Vehicle Report, as defined in Section 6-117 of this title; and

2. A copy of any driving record related to the Motor Vehicle Report.

F. 1. The provisions of subsections B, D, and E of this section and the Oklahoma Open Records Act shall not apply to the release of personal information from any driving record of any person. Such personal information shall be confidential except as provided for in this subsection or in the provisions of the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725. Upon written request to the Commissioner of Public Safety by a law enforcement agency or another state's or country's driver licensing agency for personal information on a specific individual, as named or otherwise identified in the written request, to be used in the official capacity of the agency, the Commissioner may release such personal information to the agency pursuant to the provisions of the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725. Provided, the provisions of this subsection or any other provision of this title shall not be construed to keep audio or video recordings of the Department of Public Safety confidential beyond any exceptions provided for in the Oklahoma Open Records Act.

2. For the purposes of this subsection, "personal information" means information which identifies a person, including but not limited to a photograph or image in computerized format of the

person, fingerprint image in computerized format, signature or signature in computerized format, social security number, residence address, mailing address, and medical or disability information.

SECTION 2. AMENDATORY 51 O.S. 2011, Section 24A.3, is amended to read as follows:

Section 24A.3 As used in ~~this act~~ the Oklahoma Open Records Act:

1. "Record" means all documents, including, but not limited to, any book, paper, photograph, microfilm, data files created by or used with computer software, computer tape, disk, record, sound recording, film recording, video record or other material regardless of physical form or characteristic, created by, received by, under the authority of, or coming into the custody, control or possession of public officials, public bodies, or their representatives in connection with the transaction of public business, the expenditure of public funds or the administering of public property. "Record" does not mean:

a. computer software,

b. nongovernment personal effects,

c. unless public disclosure is required by other laws or regulations, vehicle movement records of the Oklahoma Transportation Authority obtained in connection with the Authority's electronic toll collection system,

d. personal financial information, credit reports or other financial data obtained by or submitted to a public body for the purpose of evaluating credit worthiness, obtaining a license, permit, or for the purpose of becoming qualified to contract with a public body,

e. any digital audio/video recordings of the toll collection and safeguarding activities of the Oklahoma Transportation Authority,

f. any personal information provided by a guest at any facility owned or operated by the Oklahoma Tourism and Recreation Department or the Board of Trustees of the Quartz Mountain Arts and Conference Center and Nature

Park to obtain any service at the facility or by a purchaser of a product sold by or through the Oklahoma Tourism and Recreation Department or the Quartz Mountain Arts and Conference Center and Nature Park,

g. a Department of Defense Form 214 (DD Form 214) filed with a county clerk, including any DD Form 214 filed before ~~the effective date of this act~~ July 1, 2002, or

h. except as provided for in Section 2-110 of Title 47 of the Oklahoma Statutes,

(1) any record in connection with a Motor Vehicle Report issued by the Department of Public Safety, as prescribed in Section 6-117 of Title 47 of the Oklahoma Statutes, or

(2) personal information within driver records, as defined by the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725, which are stored and maintained by the Department of Public Safety~~, or~~

~~(3) audio or video recordings of the Department of Public Safety~~;

2. "Public body" shall include, but not be limited to, any office, department, board, bureau, commission, agency, trusteeship, authority, council, committee, trust or any entity created by a trust, county, city, village, town, township, district, school district, fair board, court, executive office, advisory group, task force, study group, or any subdivision thereof, supported in whole or in part by public funds or entrusted with the expenditure of public funds or administering or operating public property, and all committees, or subcommittees thereof. Except for the records required by Section 24A.4 of this title, "public body" does not mean judges, justices, the Council on Judicial Complaints, the Legislature, or legislators;

3. "Public office" means the physical location where public bodies conduct business or keep records;

4. "Public official" means any official or employee of any public body as defined herein; and

5. "Law enforcement agency" means any public body charged with enforcing state or local criminal laws and initiating criminal prosecutions, including, but not limited to, police departments, county sheriffs, the Department of Public Safety, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission, and the Oklahoma State Bureau of Investigation.

SECTION 3. AMENDATORY 51 O.S. 2011, Section 24A.8, is amended to read as follows:

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

1. An arrestee description, including the name, date of birth, address, race, sex, physical description, and occupation of the arrestee;

2. Facts concerning the arrest, including the cause of arrest and the name of the arresting officer;

3. A chronological list of all incidents, including initial offense report information showing the offense, date, time, general location, officer, and a brief summary of what occurred;

4. Radio logs, including a chronological listing of the calls dispatched;

5. Conviction information, including the name of any person convicted of a criminal offense;

6. Disposition of all warrants, including orders signed by a judge of any court commanding a law enforcement officer to arrest a particular person;

7. A crime summary, including an agency summary of crimes reported and public calls for service by classification or nature and number; ~~and~~

8. Jail registers, including jail blotter data or jail booking information recorded on persons at the time of incarceration showing the name of each prisoner with the date and cause of commitment, the authority committing the prisoner, whether committed for a criminal offense, a description of the prisoner, and the date or manner of discharge or escape of the prisoner; and

9. Audio and video recordings from recording equipment attached to law enforcement vehicles and/or on the person of a law enforcement officer; provided, the law enforcement agency may, before releasing any audio or video recording, redact or obscure specific portions of the recording which depict the death of a person or a dead body, depict any person who is nude or identify minors under the age of sixteen (16) years. Provided further, law enforcement agencies may redact or obscure specific portions of audio and video recordings which reveal the identity of law enforcement officers who become subject to internal investigation by the law enforcement agency until the law enforcement agency concludes the investigation. At the conclusion of the investigation and disciplinary process, the unedited audio and video recordings shall be available for public inspection and copying. The unedited audio and video recordings shall be available for public inspection and copying before the conclusion of the investigation and disciplinary process if the investigation and disciplinary process lasts for an unreasonable amount of time.

B. Except for the records listed in subsection A of this section and those made open by other state or local laws, law enforcement agencies may deny access to law enforcement records except where a court finds that the public interest or the interest of an individual outweighs the reason for denial.

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

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

E. The Council on Law Enforcement Education and Training (C.L.E.E.T.) shall keep confidential all records it maintains pursuant to Section 3311 of Title 70 of the Oklahoma Statutes and deny release of records relating to any employed or certified full-time officer, reserve officer, retired officer or other person; teacher lesson plans, tests and other teaching materials; and

personal communications concerning individual students except under the following circumstances:

1. To verify the current certification status of any peace officer;

2. As may be required to perform the duties imposed by Section 3311 of Title 70 of the Oklahoma Statutes;

3. To provide to any peace officer copies of the records of that peace officer upon submitting a written request;

4. To provide, upon written request, to any law enforcement agency conducting an official investigation, copies of the records of any peace officer who is the subject of such investigation;

5. To provide final orders of administrative proceedings where an adverse action was taken against a peace officer; and

6. Pursuant to an order of the district court of the State of Oklahoma.

F. The Department of Public Safety shall keep confidential:

1. All records it maintains pursuant to its authority under Title 47 of the Oklahoma Statutes relating to the Oklahoma Highway Patrol Division, the Communications Division, and other divisions of the Department relating to:

a. training, lesson plans, teaching materials, tests, and test results,

b. policies, procedures, and operations, any of which are of a tactical nature, and

c. the following information from radio logs:

(1) telephone numbers,

(2) addresses other than the location of incidents to which officers are dispatched, and

(3) personal information which is contrary to the provisions of the Driver's Privacy Protection

Act, 18 United States Code, Sections 2721 through 2725; and

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

SECTION 4. This act shall become effective November 1, 2014.

Passed the House of Representatives the 6th day of May, 2014.

Presiding Officer of the House of Representatives

Passed the Senate the 24th day of April, 2014.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 7th day of May, 20 14, at 3:28 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 12th day of May, 20 14, at 1:24 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 12th day of May, 20 14, at 2:43 o'clock P. M.

By: Chris Benge