An Act

ENROLLED HOUSE
BILL NO. 2794

By: Stinson and Kerbs of the House

and

Pugh of the Senate

An Act relating to members of the state judiciary; creating the Oklahoma Judicial Security and Privacy Act of 2023; providing definitions; establishing notice system for at-risk individuals and their immediate family to ensure compliance; prohibiting state agencies from publicly posting or displaying certain information; clarifying exceptions; authorizing the Administrative Director of the Courts to make notice on behalf of at-risk individuals; providing what is proper notice; permitting delegation of authority; providing alternative to individual notice; directing the Administrative Director of the Courts to submit report; prohibiting certain acts by entities with respect to certain information; providing exceptions; prohibiting persons, businesses, and associations from certain activities; providing exceptions; establishing time within the removal of certain information must be made; prohibiting transfer of information; providing exceptions; creating a right of action for certain individuals; providing penalty for violations; clarifying scope of act; providing for severability; providing for codification; and providing an effective date.

SUBJECT: State judiciary

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3011 of Title 20, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Judicial Security and Privacy Act of 2023".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3012 of Title 20, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. The term "at-risk individual" means any active or retired member of the State Judiciary, and shall also include municipal, county, tribal, and federal judges;

2. The term "commercial entity" means any corporation, partnership, limited partnership, proprietorship, sole proprietorship, firm, enterprise, franchise, or association engaged in the buying or selling of goods or services for profit;

3. The term "covered information" means:

a. a home address, including primary residence or secondary residences of an at-risk individual,

b. a home or personal mobile telephone number, or the direct telephone number of a government-issued cell phone or private extension in the chambers of an at-risk individual,

c. a personal email address of an at-risk individual,

d. the Social Security number, driver license number, or home address displayed on voter registration information of an at-risk individual,

e. bank account or credit or debit card information of an at-risk individual,

f. the home or other address displayed on property tax records or held by a federal, state, or local government agency of an at-risk individual, including any secondary residence and any investment property at

which an at-risk individual resides for part of a year,

g. a license plate number or home address displayed on vehicle registration information of an at-risk individual,

h. the identification of children under the age of eighteen (18) of an at-risk individual or any child under the age of twenty-six (26) whose permanent residence is the home of the at-risk individual,

i. the full date of birth,

j. a photograph of any vehicle that legibly displays the license plate or a photograph of a residence that legibly displays the address of the residence of an at-risk individual,

k. the name and address of a school or day care facility attended by immediate family of an at-risk individual,

l. the name and address of an employer of immediate family of an at-risk individual, or

m. the name and address of a place of worship the at-risk individual or immediate family of an at-risk individual attends;

4. The term "immediate family" means a spouse, child, or parent of an at-risk individual or any other familial relative of an at-risk individual whose permanent residence is the same as the at-risk individual;

5. The term "social media" means any online electronic medium or a live chat system that:

a. primarily serves as a medium for users to interact with content generated by other third-party users of the medium,

b. enables users to create accounts or profiles specific to the medium or to import profiles from another medium, and

c. enables one or more users to generate content that can be viewed by other third-party users of the medium;

6. The term "state agency" means:

a. an executive agency, as defined by Oklahoma Statute,

b. any county, local or municipal governing body, or regulatory body, and

c. any state agency in the judicial branch or legislative branch; and

7. The term "transfer" means to sell, license, trade, or exchange for consideration the covered information of an at-risk individual or immediate family.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3013 of Title 20, unless there is created a duplication in numbering, reads as follows:

A. Each at-risk individual may:

1. File written notice of the status of the individual as an at-risk individual, for themselves and immediate family, with each state agency that includes information necessary to ensure compliance with this section, as determined by the Administrative Director of the Courts; and

2. Request that each state agency described in Section 2 of this act mark as private their covered information and that of their immediate family.

B. State agencies shall not publicly post or publicly display content that includes covered information of an at-risk individual or immediate family. State agencies, upon receipt of a written request under paragraph 1 of subsection A of this section, shall remove the covered information of the at-risk individual or immediate family from publicly available content not later than seventy-two (72) hours after such receipt.

C. Nothing in this section shall prohibit a state agency from providing access to records containing the covered information of a member of the judiciary to a third party if the third party:

1. Possesses a signed release from the judge or a lawful court order;

2. Is subject to the requirements of Title V of the federal Gramm-Leach-Bliley Act, 15 U.S.C., Section 6801 et seq.; or

3. Executes a confidentiality agreement with the state agency.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3014 of Title 20, unless there is created a duplication in numbering, reads as follows:

Upon written request of an at-risk individual, the Administrative Director of the Courts is authorized to make any notice or request required or authorized by this act on behalf of the at-risk individual. The notice or request shall include information necessary to ensure compliance with this act. The Director may delegate this authority to an appropriate state agency. Any notice or request made under this act shall be deemed to have been made by the at-risk individual and comply with the notice and request requirements of this act.

In lieu of individual notices or requests, the Administrative Director of the Courts, may provide state agencies, county and municipal governments, commercial entity, persons, businesses, or associations with a list of at-risk individuals and their immediate family that includes information necessary to ensure compliance with this act, as determined by the Administrative Director of Courts for the purpose of maintaining compliance with this act. Such list shall be deemed to comply with individual notice and request requirements of this act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3015 of Title 20, unless there is created a duplication in numbering, reads as follows:

Not later than one (1) year after the date of enactment of this act, and biennially thereafter, the Administrative Director of the Courts shall submit to the Legislature an annual report that includes:

1. A detailed amount spent by the state and local governments on protecting judges' covered information;

2. Where the judges' covered information was found; and

3. The collection of any new types of personal data found to be used to identify judges who have received threats, including prior home addresses, employers, and institutional affiliations such as nonprofit boards.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3016 of Title 20, unless there is created a duplication in numbering, reads as follows:

A. Except as provided in subsection B of this section, no person, business, or association shall publicly post or publicly display on the Internet covered information of an at-risk individual or immediate family if the at-risk individual has made a written request to that person, business, or association to not disclose the covered information of the at-risk individual or immediate family.

B. Subsection A of this section shall not apply to:

1. Covered information that the at-risk individual or immediate family voluntarily publishes on the Internet after the date of enactment of this act; or

2. Covered information lawfully received from a state government source or from an employee or agent of the state government.

C. After receiving a written request under this section, the person, business, or association shall remove within seventy-two (72) hours the covered information from the Internet and ensure that the information is not made available on any publicly available website controlled by that person, business, or association, and ensure that the covered information of the at-risk individual or immediate family is not made available on any publicly available website controlled by that person, business, or association.

D. This section shall not apply to:

1. Covered information that the at-risk individual or immediate family voluntarily publishes on the Internet after the date of enactment of this act; or

2. A transfer made at the request of the at-risk individual or that is necessary to effectuate a request to the person, business, or association from the at-risk individual.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3017 of Title 20, unless there is created a duplication in numbering, reads as follows:

A. An at-risk individual or their immediate family whose covered information is made public as a result of a violation of this act may bring an action seeking injunctive or declaratory relief in any court of competent jurisdiction. If the court grants injunctive or declaratory relief, the person, business, or association responsible for the violation shall be required to pay the costs and reasonable attorney fees of the at-risk individual or immediate family, as applicable.

B. If a person, business, or association knowingly violates an order granting injunctive or declaratory relief under subsection A of this section, the court issuing such order may:

1. If the person, business, or association is a government agency:

a. impose a fine not greater than Four Thousand Dollars ($4,000.00), and

b. award to the at-risk individual or their immediate family, as applicable, court costs and reasonable attorney fees; and

2. If the person, business, or association is not a government agency, award to the at-risk individual or their immediate family, as applicable:

a. an amount equal to the actual damages sustained by the at-risk individual or their immediate family, and

b. court costs and reasonable attorney fees.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3018 of Title 20, unless there is created a duplication in numbering, reads as follows:

A. Nothing in this act shall be construed:

1. To prohibit, restrain, or limit the lawful investigation or reporting by the press of any unlawful activity or misconduct

alleged to have been committed by an at-risk individual or their immediate family;

2. To impair access to decisions and opinions from a member of the State Judiciary in the course of carrying out their public functions;

3. To limit the publication or transfer of covered information that the at-risk individual or their immediate family member voluntarily publishes on the Internet after the date of enactment of this act; or

4. To prohibit information sharing by a commercial entity to a federal, state, tribal, or local government, or any unit thereof.

B. This act shall be broadly construed to favor the protection of the covered information of at-risk individuals and their immediate family.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3019 of Title 20, unless there is created a duplication in numbering, reads as follows:

If any provision of this act, an amendment made by this act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this act and the amendments made by this act and the application of the remaining provisions of this act and amendments to any person or circumstance shall not be affected.

SECTION 10. This act shall become effective November 1, 2023.

Passed the House of Representatives the 25th day of May, 2023.

Presiding Officer of the House
of Representatives

Passed the Senate the 25th day of May, 2023.

Brent Howard
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 26th
day of May, 2023, at 10:34 o'clock a. M.
By: Summer Curry

Approved by the Governor of the State of Oklahoma this 7th
day of June, 2023, at 3:29 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 7th
day of June, 2023, at 4:35 o'clock P. M.
By: Brian Bingman