

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2794

By: Stinson of the House

and

Pugh of the Senate

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9 COMMITTEE SUBSTITUTE

10 An Act relating to members of the State Judiciary;
11 creating the Oklahoma Judicial Security and Privacy
12 Act of 2023; providing definitions; establishing
13 notice system for at-risk individuals and their
14 immediate family to ensure compliance; prohibiting
15 state agencies from publicly posting or displaying
16 certain information; clarifying exceptions;
17 authorizing the Administrative Director of the Courts
18 to make notice on behalf of at-risk individuals;
19 providing what is proper notice; permitting
20 delegation of authority; providing alternative to
21 individual notice; directing the Administrative
22 Director of the Courts to submit report; prohibiting
23 certain acts by data brokers; providing exceptions;
24 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; clarify reach of act; providing for
 severability; providing for codification; and
 providing an effective date.

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

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

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

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

9 As used in this act:

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

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

17 3. The term "covered information" means:
18 a. a home address, including primary residence or
19 secondary residences of an at-risk individual,
20 b. a home or personal mobile telephone number, or the
21 direct telephone number of a government-issued cell
22 phone or private extension in the chambers of an at-
23 risk individual,
24 c. a personal email address of an at-risk individual,

- 1 d. the Social Security number, driver license number, or
2 home address displayed on voter registration
3 information of an at-risk individual,
4 e. bank account or credit or debit card information of an
5 at-risk individual,
6 f. the home or other address displayed on property tax
7 records or held by a federal, state, or local
8 government agency of an at-risk individual, including
9 any secondary residence and any investment property at
10 which an at-risk individual resides for part of a
11 year,
12 g. a license plate number or home address displayed on
13 vehicle registration information of an at-risk
14 individual,
15 h. the identification of children under the age of
16 eighteen (18) of an at-risk individual or any child
17 under the age of twenty-six (26) whose permanent
18 residence is the home of the at-risk individual,
19 i. the full date of birth,
20 j. a photograph of any vehicle that legibly displays the
21 license plate or a photograph of a residence that
22 legibly displays the address of the residence of an
23 at-risk individual,
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- 1 k. the name and address of a school or day care facility
2 attended by immediate family of an at-risk individual,
3 l. the name and address of an employer of immediate
4 family of an at-risk individual, or
5 m. the name and address of a place of worship the at-risk
6 individual or immediate family of an at-risk
7 individual attends;

8 4. The term "data broker" means a commercial entity engaged in
9 collecting, assembling, or maintaining personal information
10 concerning an individual who is not a customer, client, or an
11 employee of that entity in order to sell the information or
12 otherwise profit from providing third-party access to the
13 information. The term data broker does not include a commercial
14 entity engaged in the following activities:

- 15 a. providing 4-1-1 directory assistance or directory
16 information services, including name, address, and
17 telephone number, on behalf of or as a function of a
18 telecommunications carrier,
19 b. using personal information internally, providing
20 access to businesses under common ownership or
21 affiliated by corporate control, or selling or
22 providing data for a transaction or service requested
23 by or concerning the individual whose personal
24 information is being transferred,

- 1 c. providing publicly available information via real-time
2 or near-real-time alert services for health or safety
3 purposes,
- 4 d. a consumer reporting agency subject to the federal
5 Fair Credit Reporting Act under 15 U.S.C. Section 1681
6 et seq.,
- 7 e. a financial institution subject to the federal Gramm-
8 Leach-Bliley Act under Public Law No. 106-102 and
9 regulations implementing that act,
- 10 f. a covered entity for purposes of the privacy
11 regulations promulgated under Section 264(c) of the
12 federal Health Insurance Portability and
13 Accountability Act of 1996 under 42 U.S.C. Section
14 1320d-2, and
- 15 g. the collection and sale or licensing of covered
16 information incidental to conducting the activities
17 described in subparagraphs a through f of this
18 paragraph;

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

23 6. The term "social media" means any online electronic medium
24 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;

7. The term "state agency" means:

- a. an executive agency, as defined by Oklahoma Statute, and
- b. any county, local or municipal governing body, or regulatory body, and
- c. any state agency in the judicial branch or legislative branch; and

8. 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

1 state agency that includes information necessary to ensure
2 compliance with this section, as determined by the Administrative
3 Director of the Courts; and

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

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

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

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

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

21 3. Executes a confidentiality agreement with the state agency.

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

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

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

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

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

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

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

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

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

13 A. It shall be unlawful for a data broker to knowingly sell,
14 license, trade for consideration, or purchase covered information of
15 an at-risk individual or immediate family.

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

22 C. Subsection B of this section shall not apply to:
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1 1. Covered information that the at-risk individual or immediate
2 family voluntarily publishes on the Internet after the date of
3 enactment of this act; or

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

7 D. After receiving a written request under this section, the
8 person, business, or association shall remove within seventy-two
9 (72) hours the covered information from the Internet and ensure that
10 the information is not made available on any website or a subsidiary
11 website controlled by that person, business, or association; and
12 ensure that the covered information of the at-risk individual or
13 immediate family is not made available on any website or a
14 subsidiary website controlled by that person, business, or
15 association.

16 E. After receiving a written request under this section, the
17 person, business, or association shall not transfer the covered
18 information of the at-risk individual or immediate family to any
19 other person, business, or association through any medium. This
20 subsection shall not apply to:

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

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

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

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

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

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

20 a. impose a fine not greater than Four Thousand Dollars
21 (\$4,000.00), and

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

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

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

6 b. court costs and reasonable attorney fees.

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

10 A. Nothing in this act shall be construed:

11 1. To prohibit, restrain, or limit the lawful investigation or
12 reporting by the press of any unlawful activity or misconduct
13 alleged to have been committed by an at-risk individual or their
14 immediate family;

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

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

22 4. To prohibit information sharing by a data broker to a
23 federal, state, tribal, or local government, or any unit thereof.

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

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

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

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

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15 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated
16 03/01/2023 - DO PASS, As Amended and Coauthored.

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