

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 2657

By: Steagall

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6 AS INTRODUCED

7 An Act relating to information privacy; enacting the
8 Oklahoma Privacy Act of 2023; declaring public
9 policy; defining terms; clarifying scope of act;
10 prohibiting supporting agencies from disclosing or
11 communicating certain confidential information;
12 declaring a penalty; mandating that supporting
13 agencies keep an accounting of third-party access to
14 certain information; directing supporting agencies to
15 establish rules related to records; directing
16 supporting agencies to instruct employees and
17 contractors; directing supporting agencies to
18 establish safeguards; directing The Office of
19 Management and Enterprise Services to provide report;
20 directing the Director of the Office of Management
21 and Enterprise Services to provide certification to
22 the Oklahoma Attorney General; creating civil
23 remedies; clarifying standing; clarifying fees and
24 court costs; creating criminal penalties; amending 21
O.S. 2021, Sections 1952 and 1953, which relate to
the Oklahoma Computer Crimes Act; adding terms;
adding unlawful acts; providing for codification;
providing an effective date; and declaring an
emergency.

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

22 SECTION 1. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 400 of Title 51, unless there is
24 created a duplication in numbering, reads as follows:

1 A. This section and Sections 2 through 10 of this act shall be
2 known and may be cited as the "Oklahoma Privacy Act of 2023".

3 B. All statutes hereinafter enacted and codified as part of the
4 Oklahoma Privacy Act of 2023 shall be considered and deemed part of
5 the Oklahoma Privacy Act of 2023.

6 SECTION 2. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 401 of Title 51, unless there is
8 created a duplication in numbering, reads as follows:

9 It is the public policy of the State of Oklahoma to protect and
10 limit the use of personally identifiable information of its public
11 employees when such personally identifiable information is held by
12 or accessible to other supporting state agencies.

13 SECTION 3. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 402 of Title 51, unless there is
15 created a duplication in numbering, reads as follows:

16 The following terms contained in the Oklahoma Privacy Act of
17 2023 shall be defined as follows:

18 1. "Agency" means any constitutionally or statutorily created
19 entity within the executive branch such as an authority, board,
20 bureau, commission, committee, department, executive branch
21 instrumentality, interstate commission, office, public body, or
22 public trust designated to act on behalf of the state or through
23 which the state is a beneficiary;

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1 2. "Appointing authority" shall be defined in accordance with
2 Section 840-1.3 of Title 74 of the Oklahoma Statutes;

3 3. "Chief administrative officer" shall be defined in
4 accordance with Section 102 of Title 61 of the Oklahoma Statutes;

5 4. "Communication" means a process by which information is
6 exchanged, transmitted, broadcast, conveyed, shared, or otherwise
7 disclosed verbally or in written form either in person or through
8 other physical or digital means;

9 5. "Disclose" means to make known; to publish; to open or
10 expose to view; to actively or passively allow access to or viewing
11 by another person;

12 6. "Maintain" means and includes accumulate, collect,
13 disseminate, distribute, gather, hold, manage, store, or use; and

14 7. "Record" means any item, collection, or grouping of
15 information about a person that is maintained either physically or
16 digitally by an agency, including, but not limited to, a person's
17 education, financial transactions, medical history, and criminal or
18 employment history, personnel records, and that contains a person's
19 name, or identifying number, symbol, or other identifying particular
20 assigned to the person, such as a finger print, voice print,
21 physical or digital image or any other type of individual digital or
22 biometric identifiers.

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1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 403 of Title 51, unless there is
3 created a duplication in numbering, reads as follows:

4 This act shall apply to all agencies, as defined in paragraph 1
5 of Section 3 of this act. This act shall not apply to judges,
6 justices, the Council on Judicial Complaints or the Legislature.
7 The Legislative and Judicial Branches shall guard and protect the
8 personally identifiable information of their constituents and public
9 employees in accordance with rules adopted pursuant to the authority
10 granted to them respectively by the Oklahoma Constitution.

11 SECTION 5. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 404 of Title 51, unless there is
13 created a duplication in numbering, reads as follows:

14 A. Any supporting agency, including the Office of Management
15 and Enterprise Services, or a supporting contracting entity, which
16 maintains, holds or possesses access to records of another agency
17 supported by the supporting agency shall not disclose or communicate
18 to any other person any record belonging to, created by or
19 pertaining to the supported agency when the record is one that may
20 be treated as confidential by the supported agency pursuant to
21 Section 24A.7 of Title 51 of the Oklahoma Statutes unless written
22 consent of the appointing authority or chief administrative officer
23 of the supported agency to which the record belongs or to which the
24 record pertains or was created is obtained prior to disclosure.

1 B. Any person employed by or retained as a contract employee by
2 a supporting agency who discloses or communicates any records
3 belonging to or pertaining to or created by a supported agency when
4 such a record is one that may be treated as confidential by the
5 supported agency pursuant to Section 24A.7 of Title 51 of the
6 Oklahoma Statutes shall be subject to civil liability and the
7 criminal penalties as provided for in Sections 8 and 10 of this act.

8 C. No person appointed pursuant to Section 10.3 of Title 74 of
9 the Oklahoma Statutes, nor any other employee or appointee of the
10 Office of Governor shall serve as or be considered an appointing
11 authority, chief administrative officer, officer or employee of any
12 agency whereby a board or commission exercises administrative or
13 governing authority over the agency pursuant to state statute or the
14 Oklahoma Constitution.

15 SECTION 6. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 405 of Title 51, unless there is
17 created a duplication in numbering, reads as follows:

18 Accounting of third-party access. Any supporting agency,
19 including the Office of Management and Enterprise Services, or a
20 supporting contracting entity, which has capability or capacity to
21 access computers, digital or electronic files, servers, cloud
22 storage, digital and physical records of any kind, state-issued
23 phones or other electronic devices assigned to, under the control of
24 or belonging to a supported agency shall maintain:

1 1. An access log of all routine instances where access is
2 voluntarily granted by the assigned user to a public employee
3 employed by a supporting agency or to an employee of a supporting
4 contracting entity:

5 a. the access log shall include the date, time, and name
6 of the public employee or employee of a contracting
7 entity who initiated or executed the access, and

8 b. the access log required in this paragraph shall be
9 maintained for no less than two (2) years and shall be
10 subject to public inspection upon request;

11 2. An access log of all instances of where access was achieved
12 by a public employee employed by a supporting agency or by an
13 employee of a supporting contracting entity but without the
14 knowledge and consent of a user in a supported agency:

15 a. the access log shall include the date, time, and name
16 of the public employee or employee of a contracting
17 entity who initiated or executed the access,

18 b. the access log required in this paragraph shall be
19 maintained for no less than five (5) years and shall
20 be subject to public inspection upon request, and

21 c. violations of this subparagraph shall be subject to
22 the same civil liability and criminal penalties
23 provided for in Sections 8 and 10 of this act.

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1 SECTION 7. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 406 of Title 51, unless there is
3 created a duplication in numbering, reads as follows:

4 A. Any supporting agency, including the Office of Management
5 and Enterprise Services, or a supporting contracting entity, which
6 maintains, holds or possesses access to records of another agency
7 supported by the supporting agency shall:

8 1. Establish rules of conduct for employees or contractors
9 involved in the design, development, operation, or maintenance of
10 any system of records, or in maintaining any record, or in allowing
11 access to any record belonging to or pertaining to another agency
12 when the record is one that may be treated as confidential by the
13 other agency pursuant to Section 24A.7 of Title 51 of the Oklahoma
14 Statutes;

15 2. Instruct each such employee or contractor with respect to
16 such rules and the requirements of this act, including the penalties
17 for noncompliance; and

18 3. Establish appropriate administrative, technical, digital,
19 and physical safeguards to ensure the security and confidentiality
20 of such records and to protect against any anticipated threats or
21 hazards to their security or integrity which could result in their
22 unlawful disclosure or communication.

23 B. The Office of Management and Enterprise Services shall
24 provide a report to the Governor, the Attorney General, the Speaker

1 of the Oklahoma House and President Pro Tempore of the Oklahoma
2 State Senate within thirty (30) days after the effective date of
3 this act verifying the agency's compliance with this act and
4 describing in detail the steps which have been taken to ensure
5 continuing and on-going compliance with the requirements of this
6 act.

7 C. The Director of the Office of Management and Enterprise
8 Services shall:

9 1. Within ten (10) days of the effective date of this act,
10 certify to the Attorney General that all records belonging to,
11 created by or pertaining to all other supported agencies where the
12 records which are maintained, held or where the supporting agency
13 possesses access to records are those that may be treated as
14 confidential by the supported agency pursuant to Section 24A.7 of
15 Title 51 of the Oklahoma Statutes:

16 a. have been retrieved from any previous recipient or
17 continuing access is now denied to any previous
18 recipient who, under this act and Section 24A.7 of
19 Title 51 of the Oklahoma Statutes, is not entitled to
20 have or to retain access to the record or records in
21 question,

22 b. who the persons are who previously received records or
23 access to records belonging to, created by or
24 pertaining to a supported agency that falls under

1 Section 24A.7 of Title 51 of the Oklahoma Statutes
2 where prior written consent of the appointing
3 authority or chief administrative officer of the
4 supported agency would be required under this act, and
5 c. which specific officers, public employees and contract
6 employees of the Office of Management and Enterprise
7 Services, who have previously provided or have allowed
8 access to records protected under Section 24A.7 of
9 Title 51 of the Oklahoma Statutes where prior written
10 consent of the appointing authority or chief
11 administrative officer of the supported agency would
12 be required under this act;

13 2. The certification required pursuant to this subsection shall
14 be submitted to the Attorney General under penalty of perjury.

15 SECTION 8. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 407 of Title 51, unless there is
17 created a duplication in numbering, reads as follows:

18 A. Civil remedies.

19 1. In any action pursuant to this act, the court may award any
20 or all of the following types of relief by requiring the State of
21 Oklahoma to:

22 a. comply with the provisions of the Oklahoma Privacy Act
23 of 2023,
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1 b. compensate the complainant for damages suffered as a
2 result of disclosure prohibited by the Oklahoma
3 Privacy Act of 2023,

4 c. pay the complainant an amount equal to the amount
5 provided in subparagraph b of this paragraph as
6 liquidated damages, if the court determines that the
7 agency willfully failed to comply with the provisions
8 of the Oklahoma Privacy Act of 2023,

9 d. pay actual and compensatory damages, and

10 e. pay punitive damages. Punitive damages awarded
11 pursuant to this subparagraph shall be determined in
12 accordance with applicable state law;

13 B. Equity powers. The court shall use, if it deems
14 appropriate, its full equity powers, including temporary or
15 permanent injunctions, temporary restraining orders, and contempt
16 orders, to vindicate fully the rights of persons under the Oklahoma
17 Privacy Act of 2023.

18 SECTION 9. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 408 of Title 51, unless there is
20 created a duplication in numbering, reads as follows:

21 A. Standing. An action pursuant to the Oklahoma Privacy Act of
22 2023 may be initiated only by a person claiming privacy and
23 confidentiality rights as provided under this act.

24 B. Fees and court costs.

1 1. No fees or court costs shall be charged against or imposed
2 upon any person claiming rights under the Oklahoma Privacy Act of
3 2023.

4 2. In any action or proceeding to enforce a provision of the
5 Oklahoma Privacy Act of 2023, the court may award a prevailing
6 complainant's reasonable attorney fees, expert witness fees, and
7 other litigation expenses.

8 3. An action to enforce any liability created under this act
9 may be brought in the district court of the county in which the
10 complainant resides, or has his or her principal place of business,
11 or in which the agency records are situated or stored, either
12 physically or digitally, without regard to the amount in
13 controversy, within two (2) years from the date on which the cause
14 of action arises, except that where a supporting agency has
15 materially and willfully disclosed information required under this
16 act to remain confidential and under this act is material to
17 establishment of the liability of the supporting agency to the
18 individual under this act, the action may be brought at any time
19 within two (2) years after discovery of the disclosure by the
20 individual.

21 SECTION 10. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 411 of Title 51, unless there is
23 created a duplication in numbering, reads as follows:

24 A. Criminal penalties.

1 1. Any officer, employee of a supporting agency, including
2 employees or contract personnel of the Office of Management and
3 Enterprise Services, any person appointed pursuant to Section 10.3
4 of Title 74 of the Oklahoma Statutes, or any other employee or
5 appointee of the Office of Governor, who by virtue of his or her
6 employment or official position, has gained possession of, or access
7 to agency records or parts thereof whereby such records, at the
8 choice of the appointing authority or chief administrative officer
9 of an agency, may be treated as confidential pursuant to Section
10 24A.7 of Title 51 of the Oklahoma Statutes, and the employee,
11 contract employee or appointee without prior written consent of the
12 appointing authority or chief administrative officer of the agency
13 to which the record belongs, was created by or to which the record
14 pertains, willfully discloses or communicates the record or parts
15 thereof in any manner to any person or agency not entitled by law to
16 receive it, shall be guilty of a misdemeanor and fined not more than
17 Five Thousand Dollars (\$5,000.00) for each instance where there are
18 less than five (5) individual instances of disclosure or
19 communication.

20 2. Any officer, employee of a supporting agency, including
21 employees or contract personnel of the Office of Management and
22 Enterprise Services, any person appointed pursuant to Section 10.3
23 of Title 74 of the Oklahoma Statutes, or any other employee or
24 appointee of the Office of Governor, who by virtue of his or her

1 employment or official position, has gained possession of, or access
2 to agency records or parts thereof whereby such records, at the
3 choice of the appointing authority or chief administrative officer
4 of an agency, may be treated as confidential pursuant to Section
5 24A.7 of Title 51 of the Oklahoma Statutes, and the employee,
6 contract employee or appointee without prior written consent of the
7 appointing authority or chief administrative officer of the agency
8 to which the record belongs, was created by or to which the record
9 pertains, willfully discloses or communicates the record or parts
10 thereof in any manner to any person or agency not entitled by law to
11 receive it, shall be guilty of a felony and fined not more than Ten
12 Thousand Dollars (\$10,000.00) in each instance where there are more
13 than five (5) individual instances of disclosure or communication.

14 3. Any officer, employee of a supporting agency, including
15 employees or contract personnel of the Office of Management and
16 Enterprise Services, any person appointed pursuant to Section 10.3
17 of Title 74 of the Oklahoma Statutes, or any other employee or
18 appointee of the Office of Governor, who knowingly and willfully
19 receives records which, at the choice of an agency, may be treated
20 as confidential pursuant to Section 24A.7 of Title 51 of the
21 Oklahoma Statutes and the employee, contract employee or appointee
22 without prior written consent of the appointing authority or chief
23 administrative officer of the agency to which the record belongs,
24 was created by or to which the record pertains, willfully receives

1 the record or parts thereof in any manner, shall be guilty of a
2 misdemeanor and fined not more than Five Thousand Dollars
3 (\$5,000.00) for each instance where he or she receives prohibited
4 records in five (5) individual instances or less.

5 4. Any officer, employee of a supporting agency, including
6 employees or contract personnel of the Office of Management and
7 Enterprise Services, any person appointed pursuant to Section 10.3
8 of Title 74 of the Oklahoma Statutes, or any other employee or
9 appointee of the Office of Governor, who knowingly and willfully
10 receives records which, at the choice of another agency, may be
11 treated as confidential pursuant to Section 24A.7 of Title 51 of the
12 Oklahoma Statutes and the employee, contract employee or appointee
13 without prior written consent of the appointing authority or chief
14 administrative officer of the agency to which the record belongs,
15 was created by or to which the record pertains, willfully receives
16 the record or parts thereof in any manner, shall be guilty of a
17 felony and fined not more than Ten Thousand Dollars (\$10,000.00) for
18 each instance where he or she receives prohibited records in more
19 than five (5) individual instances.

20 B. Government contractors. Any contracting entity engaged by
21 an agency, including the Office of Management and Enterprise
22 Services, which maintains records on behalf of another agency shall
23 not disclose or communicate to any other person any record belonging
24 to, created by or pertaining to the another agency when the record

1 is one that may be treated as confidential by the other agency
2 pursuant to Section 24A.7 of Title 51 of the Oklahoma Statutes
3 unless written consent of the appointing authority or chief
4 administrative officer of the other agency to which the record
5 belongs, was created by or to which the record pertains is obtained
6 prior to the disclosure. Upon violation of the requirements of this
7 act, contracting entities and their employees shall be subject to
8 civil liability and the criminal penalties as provided for in this
9 section of this act in the same manner as state agencies and their
10 employees.

11 SECTION 11. AMENDATORY 21 O.S. 2021, Section 1952, is
12 amended to read as follows:

13 As used in the Oklahoma Computer Crimes Act:

14 1. "Access" means to approach, gain entry to, instruct,
15 communicate with, store data in, retrieve data from or otherwise use
16 the logical, arithmetical, memory or other resources of a computer,
17 computer system or computer network;

18 2. "Agency" shall be construed in the Oklahoma Computer Crimes
19 Act in accordance with Section 2 of the Oklahoma Privacy Act of
20 2023;

21 3. "Appointing authority" shall be construed in the Oklahoma
22 Computer Crimes Act in accordance with Section 840-1.3 of Title 74
23 of the Oklahoma Statutes;
24

1 4. The term "chief administrative officer" shall be construed
2 in the Oklahoma Computer Crimes Act in accordance with Section 102
3 of Title 61 of the Oklahoma Statutes;

4 ~~2.~~ 5. "Computer" means an electronic device which performs work
5 using programmed instruction having one or more of the capabilities
6 of storage, logic, arithmetic or communication. The term includes
7 input, output, processing, storage, software and communication
8 facilities which are connected or related to a device in a system or
9 network;

10 ~~3.~~ 6. "Computer network" means the wired or wireless physical
11 or logical interconnection of one or more computers or computer
12 systems to each other, or to other computer networks, for the
13 purpose of transmitting or receiving computer programs, computer
14 software or data;

15 ~~4.~~ 7. "Computer program" means a set or series of instructions
16 or statements and related data which when executed in actual or
17 modified form directs or is intended to direct the functioning of a
18 computer system in a manner designed to perform certain operations;

19 ~~5.~~ 8. "Computer software" means one or more computer programs,
20 procedures and associated documentation used in the operation of a
21 computer system;

22 ~~6.~~ 9. "Computer system" means a set of related, connected or
23 unconnected, computer equipment, devices including support devices,
24 one or more of which contain computer programs, electronic

1 instructions, input data, and output data, that performs functions
2 including, but not limited to, logic, arithmetic, data storage and
3 retrieval, communication, and control and software. The term does
4 not include calculators which are not programmable and are not
5 capable of being connected to or used to access other computers,
6 computer networks, computer systems or support devices;

7 ~~7.~~ 10. "Data" means a representation of information, knowledge,
8 facts, concepts, computer software, computer programs or
9 instructions. Data may be in any form, in storage media, or as
10 stored in the memory of the computer or in transit or presented on a
11 display device;

12 ~~8.~~ 11. "Malicious computer program" means any computer program
13 that is created, executed, modified or distributed with the intent
14 to disrupt, destroy, deny access to, redirect, defraud, deceive,
15 exceed or gain unauthorized access to any computer, computer system,
16 computer network or data. Malicious computer program includes, but
17 is not limited to, viruses, Trojan horses, spyware, worms, rootkits,
18 backdoors, ransomware and other malicious computer instructions,
19 whether part of or independent of broader computer software or
20 computer systems;

21 ~~9.~~ 12. "Property" means any tangible or intangible item of
22 value and includes, but is not limited to, financial instruments,
23 geophysical data or the interpretation of that data, information,
24 computer software, computer programs, electronically produced data

1 and computer-produced or stored data, supporting documentation,
2 computer software in either machine or human readable form,
3 electronic impulses, confidential, copyrighted or proprietary
4 information, private identification codes or numbers which permit
5 access to a computer by authorized computer users or generate
6 billings to consumers for purchase of goods and services including,
7 but not limited to, credit card transactions and telecommunications
8 services or permit electronic fund transfers and any other tangible
9 or intangible item of value;

10 ~~10.~~ 13. "Services" includes, but is not limited to, computer
11 time, data processing and storage functions and other uses of a
12 computer, computer system or computer network to perform useful
13 work;

14 ~~11.~~ 14. "Supporting documentation" includes, but is not limited
15 to, all documentation in any form used in the construction, design,
16 classification, implementation, use or modification of computer
17 software, computer programs or data; and

18 ~~12.~~ 15. "Victim expenditure" means any expenditure reasonably
19 and necessarily incurred by the owner or lessee to verify that a
20 computer system, computer network, computer program or data was or
21 was not altered, deleted, disrupted, damaged or destroyed by the
22 access.

23 SECTION 12. AMENDATORY 21 O.S. 2021, Section 1953, is
24 amended to read as follows:

1 A. It shall be unlawful to:

2 1. Willfully, and without authorization, gain or attempt to
3 gain access to and damage, modify, alter, delete, destroy, copy,
4 make use of, use malicious computer programs on, disclose or take
5 possession of a computer, computer system, computer network, data or
6 any other property;

7 2. Use a computer, computer system, computer network or any
8 other property as hereinbefore defined for the purpose of devising
9 or executing a scheme or artifice with the intent to defraud,
10 deceive, extort or for the purpose of controlling or obtaining
11 money, property, data, services or other thing of value by means of
12 a false or fraudulent pretense or representation;

13 3. Willfully exceed the limits of authorization and damage,
14 modify, alter, destroy, copy, delete, disclose or take possession of
15 a computer, computer system, computer network, data or any other
16 property;

17 4. Willfully and without authorization, gain or attempt to gain
18 access to a computer, computer system, computer network, data or any
19 other property;

20 5. Willfully and without authorization use or cause to be used
21 computer services;

22 6. Willfully and without authorization disrupt or cause the
23 disruption of computer services or deny or cause the denial of
24 access or other computer services to an authorized user of a

1 computer, computer system or computer network, other than an
2 authorized entity acting for a legitimate business purpose with the
3 effective consent of the owner;

4 7. Willfully and without authorization provide or assist in
5 providing a means of accessing a computer, computer system, data or
6 computer network in violation of this section;

7 8. Willfully use a computer, computer system, or computer
8 network to annoy, abuse, threaten, or harass another person;

9 9. Willfully use a computer, computer system, or computer
10 network to put another person in fear of physical harm or death; ~~and~~

11 10. Willfully solicit another, regardless of any financial
12 consideration or exchange of property, of any acts described in
13 paragraphs 1 through 9 and 11 through 13 of this subsection;

14 11. Willfully and without prior written authorization of the
15 appointing authority or chief administrative officer of a supported
16 agency, for employees or contract personnel of a supporting agency,
17 including the Office of Management and Enterprise Systems, to gain
18 or attempt to gain access to, transfer access to, allow other
19 unauthorized persons to view or gain access to, view, remove,
20 transfer, share, or alter electronically stored files or data
21 belonging to, created by or pertaining to a supported agency,
22 regardless of where virtually or physically the files or data are
23 stored, in accordance with subsection F of this section;
24

1 12. Willfully use, endeavor to use or procure any other person
2 to use or endeavor to use any state-owned or leased or state-issued
3 computer, electronic network, server, networked or cellular phone,
4 or other electronic device to intercept or record any oral
5 communication by persons, including state employees, who have not
6 previously consented in writing to have their oral communications
7 recorded; and

8 13. Willfully use, endeavor to use or procure any other person
9 to use or endeavor to use any state-owned or leased or state-issued
10 computer, software, electronic network, cloud storage, server,
11 networked or cellular phone, or other electronic device to
12 intercept, record or view any documents created, stored,
13 communicated or distributed by a person on or through state-owned or
14 leased or state-issued computers, telephones, software, electronic
15 networks, cloud storage or servers, including electronic mail
16 servers where the appointing authority or chief administrative
17 officer of an agency has not previously consented in writing to have
18 such communications intercepted, recorded or viewed.

19 B. Any person convicted of violating paragraph 1, 2, 3, 6, 7,
20 9, ~~or~~ 10, 11, 12 or 13 of subsection A of this section shall be
21 guilty of a felony punishable as provided in Section 1955 of this
22 title.

23 C. Any person convicted of violating paragraph 4, 5 or 8 of
24 subsection A of this section shall be guilty of a misdemeanor.

1 D. Nothing in the Oklahoma Computer Crimes Act shall be
2 construed to prohibit the monitoring of computer usage of, or the
3 denial of computer or Internet access to, a child by a parent, legal
4 guardian, legal custodian, or foster parent. As used in this
5 subsection, "child" shall mean any person less than eighteen (18)
6 years of age.

7 E. Nothing in the Oklahoma Computer Crimes Act shall be
8 construed to prohibit testing by an authorized entity, the purpose
9 of which is to provide to the owner or operator of the computer,
10 computer system or computer network an evaluation of the security of
11 the computer, computer system or computer network against real or
12 imagined threats or harms. For purposes of this subsection, an
13 authorized entity shall not include the Office of Management and
14 Enterprise Services without the knowledge of and prior written
15 consent of the appointing authority or chief administrative officer
16 of a supported agency.

17 F. No supporting agency such as the Office of Management and
18 Enterprise Services nor any contracting entity employed or engaged
19 by a supporting agency such as the Office of Management and
20 Enterprise Services, shall be presumed to have authority to have or
21 to gain or attempt to gain access to, transfer access to, allow
22 other unauthorized persons to view or gain access to, view, remove,
23 transfer, share, or alter electronically stored files or data
24 belonging to, created by or pertaining to a supported agency,

1 regardless of where the files or data are stored, without the
2 knowledge of and prior written consent of the appointing authority
3 or chief administrative officer of the supported agency. The
4 appointing authority or chief administrative officer of a supported
5 agency may agree to allow employees or contract personnel of a
6 supporting agency, including the Office of Management and Enterprise
7 Services, to request and obtain specific types of access to the
8 supported agency's computers, network and cellular phones, and
9 network files in the course of the supporting agency providing
10 direct support to the supported agency. No supporting agency,
11 including the Office of Management and Enterprise Services, shall
12 require a supported agency to forego the protections afforded to a
13 supported agency by the Oklahoma Computer Crimes Act as a condition
14 for entering into a support agreement with the supporting agency.

15 SECTION 13. This act shall become effective July 1, 2023.

16 SECTION 14. It being immediately necessary for the preservation
17 of the public peace, health or safety, an emergency is hereby
18 declared to exist, by reason whereof this act shall take effect and
19 be in full force from and after its passage and approval.

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