

1 **SENATE FLOOR VERSION**

2 April 8, 2025

3 ENGROSSED HOUSE
4 BILL NO. 1860

By: Roberts of the House

and

Gollihare of the Senate

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7
8 An Act relating to confidential records; prescribing
9 right of victims to confidentiality of certain crime
10 scene and autopsy photographs; prohibiting public
11 access to certain photographs submitted to the Pardon
12 and Parole Board; amending 51 O.S. 2021, Section
13 24A.5, as last amended by Section 2, Chapter 116,
14 O.S.L. 2024 (51 O.S. Supp. 2024, Section 24A.5),
15 which relates to the Open Records Act; adding certain
16 victim photographs to list of confidential records;
17 prohibiting certain victim photographs submitted to
18 the Board from being presented to the public;
19 requiring parties to submit two separate clemency
20 hearing packets to the Board; clarifying contents for
21 each packet; allowing Board to seal certain records;
22 clarifying which packet the Governor will receive;
23 providing for codification; and providing an
24 effective date.

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 142A-15 of Title 21, unless
there is created a duplication in numbering, reads as follows:

Victims and victims' families shall have the right to
confidentiality of crime scene and autopsy photographs in clemency
hearings. Such photographs submitted to the Pardon and Parole Board

1 for clemency hearing purposes shall not be available to the public
2 and shall be submitted in a separate hearing packet as provided in
3 this act.

4 SECTION 2. AMENDATORY 51 O.S. 2021, Section 24A.5, as
5 last amended by Section 2, Chapter 116, O.S.L. 2024 (51 O.S. Supp.
6 2024, Section 24A.5), is amended to read as follows:

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

10 1. The Oklahoma Open Records Act, Sections 24A.1 through 24A.30
11 of this title, does not apply to records specifically required by
12 law to be kept confidential including:

13 a. records protected by a state evidentiary privilege
14 such as the attorney-client privilege, the work
15 product immunity from discovery and the identity of
16 informer privileges,

17 b. records of what transpired during meetings of a public
18 body lawfully closed to the public such as executive
19 sessions authorized under the Oklahoma Open Meeting
20 Act,

21 c. personal information within driver records as defined
22 by the Driver's Privacy Protection Act, 18 United
23 States Code, Sections 2721 through 2725,

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- 1 d. information in the files of the Board of Medicolegal
2 Investigations obtained pursuant to Sections 940 and
3 941 of Title 63 of the Oklahoma Statutes that may be
4 hearsay, preliminary unsubstantiated investigation-
5 related findings, or confidential medical information,
6 e. any test forms, question banks and answer keys
7 developed for state licensure examinations, but
8 specifically excluding test preparation materials or
9 study guides,
10 f. last names, addresses, Social Security numbers or tax
11 identification numbers, and proof of identification
12 submitted to the Oklahoma Lottery Commission by
13 persons claiming a lottery prize,
14 g. unless public disclosure is required by other laws or
15 regulations, vehicle movement records of the Oklahoma
16 Transportation Authority obtained in connection with
17 the Authority's electronic toll collection system,
18 h. personal financial information, credit reports, or
19 other financial data obtained by or submitted to a
20 public body for the purpose of evaluating credit
21 worthiness, obtaining a license, permit, or for the
22 purpose of becoming qualified to contract with a
23 public body,
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- 1 i. any digital audio/video recordings of the toll
2 collection and safeguarding activities of the Oklahoma
3 Transportation Authority,
- 4 j. any personal information provided by a guest at any
5 facility owned or operated by the Oklahoma Tourism and
6 Recreation Department to obtain any service at the
7 facility or by a purchaser of a product sold by or
8 through the Oklahoma Tourism and Recreation
9 Department,
- 10 k. a Department of Defense Form 214 (DD Form 214) filed
11 with a county clerk, including any DD Form 214 filed
12 before July 1, 2002,
- 13 l. except as provided for in Section 2-110 of Title 47 of
14 the Oklahoma Statutes:
- 15 (1) any record in connection with a Motor Vehicle
16 Report issued by the Department of Public Safety,
17 as prescribed in Section 6-117 of Title 47 of the
18 Oklahoma Statutes, or
- 19 (2) personal information within driver records, as
20 defined by the Driver's Privacy Protection Act,
21 18 U.S.C., Sections 2721 through 2725, which are
22 stored and maintained by the Department of Public
23 Safety,
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1 m. any portion of any document or information provided to
2 an agency or entity of the state or a political
3 subdivision to obtain licensure under the laws of this
4 state or a political subdivision that contains an
5 applicant's personal address, personal phone number,
6 personal email address, any government-issued
7 identification numbers, or other contact information;
8 provided, however, lists of persons licensed, the
9 existence of a license of a person, or a business or
10 commercial address, or other business or commercial
11 information disclosable under state law submitted with
12 an application for licensure shall be public record,
13 unless the business or commercial address is the same
14 as the applicant's personal address, except when the
15 applicant permits in writing the disclosure of the
16 address,

17 n. an investigative file obtained during an investigation
18 conducted by the State Department of Health into
19 violations of the Long-Term Care Administrator
20 Licensing Act under Title 63 of the Oklahoma Statutes,
21 ~~or~~

22 o. documents, evidence, materials, records, reports,
23 complaints, or other information in the possession or
24 control of the Attorney General or Insurance

1 Department pertaining to an evaluation, examination,
2 investigation, or review made pursuant to the
3 provisions of the Patient's Right to Pharmacy Choice
4 Act, the Pharmacy Audit Integrity Act, or Sections 357
5 through 360 of Title 59 of the Oklahoma Statutes, or
6 p. crime scene and autopsy photographs of victims
7 submitted to the Pardon and Parole Board for clemency
8 hearing purposes;

9 2. All Social Security numbers included in a record may be
10 confidential regardless of the person's status as a public employee
11 or private individual and may be redacted or deleted prior to
12 release of the record by the public body;

13 3. Any reasonably segregable portion of a record containing
14 exempt material shall be provided after deletion of the exempt
15 portions; provided however, the Department of Public Safety shall
16 not be required to assemble for the requesting person specific
17 information, in any format, from driving records relating to any
18 person whose name and date of birth or whose driver license number
19 is not furnished by the requesting person.

20 The Oklahoma State Bureau of Investigation shall not be required
21 to assemble for the requesting person any criminal history records
22 relating to persons whose names, dates of birth, and other
23 identifying information required by the Oklahoma State Bureau of
24

1 Investigation pursuant to administrative rule are not furnished by
2 the requesting person;

3 4. Any request for a record which contains individual records
4 of persons, and the cost of copying, reproducing or certifying each
5 individual record is otherwise prescribed by state law, the cost may
6 be assessed for each individual record, or portion thereof requested
7 as prescribed by state law. Otherwise, a public body may charge a
8 fee only for recovery of the reasonable, direct costs of record
9 copying, or mechanical reproduction. Notwithstanding any state or
10 local provision to the contrary, in no instance shall the record
11 copying fee exceed twenty-five cents (\$0.25) per page for records
12 having the dimensions of eight and one-half (8 1/2) by fourteen (14)
13 inches or smaller, or a maximum of One Dollar (\$1.00) per copied
14 page for a certified copy. However, if the request:

15 a. is solely for commercial purpose, or

16 b. would clearly cause excessive disruption of the
17 essential functions of the public body,

18 then the public body may charge a reasonable fee to recover the
19 direct cost of record search and copying; however, publication in a
20 newspaper or broadcast by news media for news purposes shall not
21 constitute a resale or use of a record for trade or commercial
22 purpose and charges for providing copies of electronic data to the
23 news media for a news purpose shall not exceed the direct cost of
24 making the copy. The fee charged by the Department of Public Safety

1 for a copy in a computerized format of a record of the Department
2 shall not exceed the direct cost of making the copy unless the fee
3 for the record is otherwise set by law.

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

7 In no case shall a search fee be charged when the release of
8 records is in the public interest, including, but not limited to,
9 release to the news media, scholars, authors and taxpayers seeking
10 to determine whether those entrusted with the affairs of the
11 government are honestly, faithfully, and competently performing
12 their duties as public servants.

13 The fees shall not be used for the purpose of discouraging
14 requests for information or as obstacles to disclosure of requested
15 information;

16 5. The land description tract index of all recorded instruments
17 concerning real property required to be kept by the county clerk of
18 any county shall be available for inspection or copying in
19 accordance with the provisions of the Oklahoma Open Records Act;
20 provided, however, the index shall not be copied or mechanically
21 reproduced for the purpose of sale of the information;

22 6. A public body must provide prompt, reasonable access to its
23 records but may establish reasonable procedures which protect the
24 integrity and organization of its records and to prevent excessive

1 | disruptions of its essential functions. A delay in providing access
2 | to records shall be limited solely to the time required for
3 | preparing the requested documents and the avoidance of excessive
4 | disruptions of the public body's essential functions. In no event
5 | may production of a current request for records be unreasonably
6 | delayed until after completion of a prior records request that will
7 | take substantially longer than the current request. Any public body
8 | which makes the requested records available on the Internet shall
9 | meet the obligation of providing prompt, reasonable access to its
10 | records as required by this paragraph; and

11 | 7. A public body shall designate certain persons who are
12 | authorized to release records of the public body for inspection,
13 | copying, or mechanical reproduction. At least one person shall be
14 | available at all times to release records during the regular
15 | business hours of the public body.

16 | SECTION 3. NEW LAW A new section of law to be codified
17 | in the Oklahoma Statutes as Section 332.22 of Title 57, unless there
18 | is created a duplication in numbering, reads as follows:

19 | A. During a Pardon and Parole Board clemency hearing, autopsy
20 | photographs and victim images displayed in the crime scene
21 | photographs shall not be presented or displayed to the public.

22 | B. Two separate clemency packets shall be submitted to the
23 | administrative office of the Board on or before a date set by the
24 | Chair:

1 1. A clemency hearing packet submitted to the public; and

2 2. A clemency hearing packet submitted to the Pardon and Parole
3 Board.

4 C. The clemency hearing packet submitted to the public by the
5 applicable parties shall not include autopsy photographs and victim
6 images displayed in the crime scene photographs.

7 D. The Board shall receive all photographs via the clemency
8 hearing packet submitted by the parties, including autopsy and
9 victim images displayed in the crime scene photographs. To further
10 ensure the confidentiality and privacy of the victim, the Board
11 shall have the ability to seal from public view any submission
12 included in the public clemency hearing packet that would infringe
13 on the confidentiality or privacy of the victim as determined by a
14 majority vote of the Board.

15 E. The Office of the Governor shall receive the clemency
16 hearing packet which includes the autopsy and victim images
17 displayed in the crime scene photographs.

18 SECTION 4. This act shall become effective November 1, 2025.

19 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
20 April 8, 2025 - DO PASS