

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 198

By: Stanislawski

4
5
6 AS INTRODUCED

7 An Act relating to counties; amending 20 O.S. 2011,
8 Sections 1005, 1005.1, 1006, 1007 and 1008, which
9 relate to the destruction of court records; modifying
10 provisions for the storage and destruction of
11 records; amending 10A O.S. 2011, Section 2-6-108, as
12 amended by Section 19, Chapter 404, O.S.L. 2013 (10A
13 O.S. Supp. 2016, Section 2-6-108), which relates to
14 the sealing and unsealing of records; modifying
15 provisions for the storage and destruction of
16 records; amending 10A O.S. 2011, Section 2-6-109,
17 which relates to the expungement of records in
18 juvenile cases; modifying provisions for the storage
19 and destruction of records; and providing an
20 effective date.

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

22 SECTION 1. AMENDATORY 20 O.S. 2011, Section 1005, is
23 amended to read as follows:

24 Section 1005. A. Unless there is an objection by the presiding
administrative judge or the chief judge of the district court, the
court clerk is authorized to dispose of the judicial records
enumerated in this subsection by first offering all or part of the
records to the Archives and Records Division of the Oklahoma
Department of Libraries for preservation as historical research

1 materials, and by destroying all those which are not accepted by the
2 Division. Nothing shall prohibit the presiding administrative judge
3 or the chief judge of the district court from entering an order for
4 the destruction of records prior to the time limits enumerated in
5 this subsection for good cause shown. In the record destruction
6 process, any officer may rely upon computerized lists or other
7 electronic data provided by the Administrative Office of the Courts
8 or its OCIS/OSCN system. For purposes of determining the time
9 periods in this chapter, the officer may disregard entries or
10 actions taken in the subject cases, such as accounting, internal
11 electronic data or other nonjudicial entries. ~~The~~ Except as
12 provided in subsection B of this section, the judicial records
13 subject to disposal or destruction shall be:

14 1. Domestic relations cases. This shall include, but not be
15 limited to, cases filed concerning divorce, separate maintenance,
16 annulment, reciprocal actions for enforcement of support, child
17 custody, domestic abuse, foreign judgments in domestic relations
18 cases, income assignments relating to an order of support,
19 paternity, appeal on administrative order relating to support or
20 paternity, habeas corpus relating to children, and other domestic-
21 related filings:

22 a. domestic relations cases that have been dismissed and
23 no pleading has been filed or any action taken in the
24 case for more than one (1) year, and

1 b. all domestic relations cases after a twenty-year
2 period has elapsed since any pleading has been filed
3 or any action taken in the case;

4 2. Probate cases. This shall include, but not be limited to,
5 cases filed concerning the probating of estates, guardianships,
6 conservatorships, protective services to the elderly, powers of
7 attorney, and trusts:

8 a. probate cases that have been dismissed and no pleading
9 has been filed or any action taken in the case for
10 more than one (1) year, and

11 b. all probate cases after a twenty-year period has
12 elapsed since any pleading has been filed or any
13 action taken in the case;

14 3. Actions brought for money judgment only in which a dismissal
15 or release and satisfaction has been filed for more than one (1)
16 year;

17 4. Civil (CJ and CS) records of cases:

18 a. civil (CJ and CS) cases that have been dismissed and
19 no pleading has been filed or any action taken in the
20 case for more than one (1) year, and

21 b. all other civil (CJ and CS) cases after a ten-year
22 period has elapsed since any pleading has been filed
23 or any action taken in the case;

1 5. Felony criminal records of unadjudicated cases and
2 adjudicated cases:

- 3 a. felony criminal cases that have been dismissed and no
4 pleading or any action taken in the case for more than
5 one (1) year,
- 6 b. felony criminal records of adjudicated cases after a
7 ten-year period has elapsed since any pleading has
8 been filed or any action taken in the case, and
- 9 c. felony criminal records of adjudicated cases, where
10 the sentence imposed was death, life without parole,
11 or life, after a fifty-year period has elapsed since
12 any pleading has been filed or any action taken in the
13 case;

14 6. Misdemeanor records of unadjudicated cases and adjudicated
15 cases:

- 16 a. misdemeanor cases that have been dismissed and no
17 pleading or any action taken in the case for more than
18 one (1) year,
- 19 b. misdemeanor records of adjudicated cases after a five-
20 year period has elapsed since any pleading has been
21 filed or any action taken in the case; and

22 7. Juvenile cases. This shall include, but not be limited to,
23 cases filed concerning delinquents, children in need of supervision,
24

1 deprived children, children in need of treatment, children in need
2 of shelter, and other related juvenile filings:

3 a. juvenile cases that have been dismissed and no
4 pleading has been filed or any action taken in the
5 case for more than one (1) year, and

6 b. all juvenile cases after a twenty-year period has
7 elapsed since any pleading has been filed or any
8 action taken in the case.

9 B. The paper judicial records and the appearance docket books
10 or sheets on which they are entered may be destroyed immediately
11 after the respective case has been adjudicated; provided that, prior
12 to their disposal or destruction, shall be stored on at least two
13 microfilm records, optical disks, or other appropriate medium, one
14 of which shall be placed in the Archives and Records Division of the
15 Oklahoma Department of Libraries or in a bank or other appropriate
16 local depository and the other shall be available for public use in
17 the court clerk's office. The copy in the Department of Libraries
18 or other depository shall be available for replacement in case of
19 functional failure of the one available for public use. The cost of
20 the storage medium and equipment for viewing and copying shall be
21 paid out of the court fund, upon approval by the Chief Justice of
22 the Supreme Court. Records reproduced from microfilm, optical disk,
23 and other media produced pursuant to the provisions of this section
24 shall be received in evidence and have the same legal efficacy as

1 the original. Paper records that are not reproduced from microfilm,
2 optical disk or other media produced pursuant this subsection shall
3 be kept and maintained for the time period provided in subsection A
4 of this section.

5 C. ~~Traffic cases.~~ The Except as otherwise provided in this
6 subsection, the court clerk of each district court shall destroy the
7 judicial records of traffic cases and the appearance docket books or
8 sheets on which they are entered after a five-year period has
9 elapsed since any pleading has been filed or any action taken in the
10 case, except in the case of a conviction for driving under the
11 influence of intoxicating liquor or any narcotic drug, which records
12 shall be destroyed after a ten-year period has elapsed since any
13 pleading has been filed or any action taken in the case. The court
14 clerk is authorized to destroy the judicial records and the
15 appearance docket books or sheets on which they are entered
16 immediately after the respective case has been adjudicated if, prior
17 to their disposal or destruction, they are reproduced on microfilm,
18 optical disk or other media produced pursuant to procedures in
19 subsection B of this section.

20 D. Records of criminal property cases brought pursuant to
21 ~~Section~~ Sections 1321 et seq. through 1327 of Title 22 of the
22 Oklahoma Statutes shall be subject to disposal or destruction after
23 a two-year period has elapsed since any pleading has been filed or
24 any action taken in the case provided that the records may be

1 destroyed immediately after the respective case has been adjudicated
2 if, prior to their disposal or destruction, they are reproduced on
3 microfilm, optical disk or other media produced pursuant to
4 procedures in subsection B of this section.

5 E. The Supreme Court of Oklahoma may establish rules regulating
6 the electronic storage of judicial records provided in this section.

7 SECTION 2. AMENDATORY 20 O.S. 2011, Section 1005.1, is
8 amended to read as follows:

9 Section 1005.1. A. All paper records which have been recorded
10 on microfilm, microfiche, compact disc, or any other recognized
11 technological means may be destroyed after the respective case has
12 been adjudicated or otherwise provided by law. With the exception
13 of felony conviction records, probate, adoption, quiet title,
14 ejectment, partition, marriage and divorce records, and Indian deed
15 approval records, all court records which have not been recorded on
16 microfilm, microfiche, compact disc, or any other recognized
17 technological means and in which no activity has occurred for
18 twenty-two (22) years, may be destroyed or may be given as
19 historical research materials to an appropriate organization as
20 determined by the court clerk of the district court.

21 ~~B. Small claims cases and justice of the peace court records~~
22 ~~shall not be subject to microfilm or other permanent recording~~
23 ~~requirements.~~ The court clerk of each district court shall destroy
24 the judicial records of justice of the peace courts including docket

1 books on which they are entered, and small claims cases including
2 the docket books and sheets on which they are entered after a five-
3 year period has elapsed since any pleading has been filed or any
4 action taken in the case; provided that the records may be destroyed
5 immediately after the respective case has been adjudicated if, prior
6 to their disposal or destruction, they are reproduced on microfilm,
7 optical disk or other media produced pursuant to rules of the
8 Oklahoma Supreme Court. The Supreme Court of Oklahoma shall
9 establish rules regulating the electronic storage of judicial
10 records provided in this section.

11 SECTION 3. AMENDATORY 20 O.S. 2011, Section 1006, is
12 amended to read as follows:

13 Section 1006. A. Unless there is an objection by the chief
14 judge of the district court, the court clerk is authorized to
15 destroy all exhibits in all domestic relations cases in which there
16 has been no activity for more than twenty (20) years, and exhibits
17 in all other civil cases in which there has been no activity for
18 more than ten (10) years; provided that the exhibits may be
19 immediately destroyed if, prior to their disposal or destruction,
20 they are reproduced on microfilm, optical disk or other media
21 produced pursuant to rules of the Oklahoma Supreme Court.

22 B. The chief judge may direct a court reporter to destroy a
23 court reporter's notes after the expiration of ten (10) years from
24 the date of a proceeding, or, if a proceeding has not resulted in an

1 appeal upon which a request has been made to transcribe the
2 proceeding, all notes of a court reporter may be destroyed
3 immediately upon completion of transcription of a proceeding;
4 provided that if the notes may be immediately destroyed if, prior to
5 their disposal or destruction, they are reproduced on microfilm,
6 optical disk or other media produced pursuant to rules of the
7 Oklahoma Supreme Court.

8 C. No pleadings or judgments shall be destroyed under the
9 provisions of this section; provided that the pleadings or judgments
10 may be immediately destroyed if, prior to their disposal or
11 destruction, they are reproduced on microfilm, optical disk or other
12 media produced pursuant to rules of the Oklahoma Supreme Court.

13 D. The Supreme Court of Oklahoma shall establish rules
14 regulating the electronic storage of judicial records provided in
15 this section.

16 SECTION 4. AMENDATORY 20 O.S. 2011, Section 1007, is
17 amended to read as follows:

18 Section 1007. The A. Except as provided in subsection B of
19 this section, the court clerk in each county in Oklahoma is
20 authorized to destroy or sell for salvage the documents mentioned in
21 this section which have been on file or stored in the court clerk's
22 office for a period longer than the time specified below:

23 1. One (1) year. All marriage health certificates.
24

1 2. Two (2) years. All instruments relating to beer, bingo,
2 process servers, foreign process servers, closing out sale, and pool
3 hall licenses including the applications, affidavits of residence,
4 orders for hearing, notices of hearing, affidavits of posting and
5 mailing and duplicate beer license.

6 3. Three (3) years. All duplicate receipts, duplicate
7 vouchers, mechanics' and materialmen's lien records, duplicate
8 deposit tickets, jury lists, juror and witness certificates, court
9 clerk's liens, court fund claims, jury and bailiff records, monthly
10 reports, statutory bonds, cost bonds, paid claims, procedural bonds,
11 court assignments, and court calendars including disposition docket
12 books containing entries which have been posted to the case file
13 docket sheet or computer printed docket sheet, appearance bonds and
14 search warrants in instances where no charges are filed, purchase
15 orders, court minutes and records pertaining to bondspersons'
16 licenses.

17 B. The documents provided in paragraphs 1, 2 and 3 of
18 subsection A of this section may be destroyed immediately after
19 filing in the court clerk office and the required time period to
20 store the documents shall not apply if, prior to their disposal or
21 destruction, they are reproduced on microfilm, optical disk or other
22 media produced pursuant to rules of the Oklahoma Supreme Court. The
23 Supreme Court of Oklahoma shall establish rules regulating the
24 electronic storage of judicial records provided in this section.

1 SECTION 5. AMENDATORY 20 O.S. 2011, Section 1008, is
2 amended to read as follows:

3 Section 1008. In each county of this state, the court clerk is
4 hereby authorized to destroy, from time to time, depositions taken
5 in all civil cases, except adoptions, after a ten-year period, and
6 depositions taken in domestic relations cases may be destroyed after
7 a twenty-year period has elapsed since any pleading has been filed
8 or any action taken in the case; provided that the depositions taken
9 in domestic relations cases may be immediately destroyed if, prior
10 to their disposal or destruction, they are reproduced on microfilm,
11 optical disk or other media produced pursuant to rules of the
12 Oklahoma Supreme Court. The Supreme Court of Oklahoma shall
13 establish rules regulating the electronic storage of judicial
14 records provided in this section.

15 SECTION 6. AMENDATORY 10A O.S. 2011, Section 2-6-108, as
16 amended by Section 19, Chapter 404, O.S.L. 2013 (10A O.S. Supp.
17 2016, Section 2-6-108), is amended to read as follows:

18 Section 2-6-108. A. No adjudication by the court upon the
19 status of a child in a juvenile proceeding shall operate to impose
20 any of the civil disabilities ordinarily resulting from conviction
21 of a crime, nor shall a child be deemed a criminal by reason of a
22 juvenile adjudication.

23
24

1 B. The court may sua sponte, upon motion by the state or upon
2 motion by the alleged delinquent, order the records of a person
3 alleged to be delinquent to be sealed as follows:

4 1. When the person has been alleged to be delinquent and:

5 a. one (1) year has elapsed from the later of:

6 (1) dismissal or closure of the case by the court, or

7 (2) notice to the court by the Office of Juvenile
8 Affairs or a juvenile bureau of final discharge
9 of such person from the supervision of the Office
10 of Juvenile Affairs or juvenile bureau, and

11 b. the person has not been found guilty of or admitted to
12 the commission of a subsequent criminal offense in
13 either a juvenile or adult proceeding, and

14 c. no juvenile or adult proceeding for a criminal offense
15 is pending;

16 2. When a juvenile court intake has been completed and:

17 a. the case has been dismissed, or

18 b. no petition has been filed pending fulfillment of
19 conditions of a voluntary probation, or

20 c. a petition has been filed but no adjudication has
21 occurred pending the fulfillment of conditions of a
22 preadjudicatory probation;

23 3. When a juvenile participates in a court-approved alternative
24 diversion program for first-time offenders and:

1 a. the juvenile presents satisfactory evidence to the
2 court that the juvenile has successfully completed the
3 program, and

4 b. the court dismisses the case at the conclusion of the
5 deferral period; or

6 4. When a juvenile participates in a court-approved military
7 mentor program and:

8 a. the juvenile presents satisfactory evidence to the
9 court that the juvenile has successfully completed the
10 program, and

11 b. the court dismisses the case at the conclusion of the
12 deferral period.

13 The records may be sealed one (1) year after such dismissal or
14 completion of the conditions of a voluntary or preadjudicatory
15 probation, alternative diversion program for first-time offenders,
16 or military mentor program or upon the person attaining the age of
17 eighteen (18) years in the discretion of the court. Upon the
18 sealing of any record of a person alleged to be delinquent pursuant
19 to this title, the record and official actions subject to the order
20 shall be deemed never to have occurred, and the person who is the
21 subject of the record and all juvenile justice agencies may properly
22 reply upon any inquiry in the matter that no such action ever
23 occurred and no such record exists with respect to such person.

1 C. The Administrative Office of the Courts shall establish on
2 or before January 1, 1994, a system for sealing records as required
3 by subsection B of this section and records shall be sealed in
4 accordance with the procedures established pursuant to said system.

5 D. 1. The court clerk shall seal the juvenile court record
6 indicated in the court's order, except that a confidential index
7 shall be maintained for the purpose of locating records subject to
8 inspection or release pursuant to subsection F of this section.

9 2. When notified by the court clerk of a court order sealing a
10 juvenile court record, the law enforcement agency having records
11 pertaining to the person shall seal the records as ordered, except
12 basic identification information shall be maintained.

13 3. Except where such documents are necessary to maintain state
14 or federal funding, the juvenile court personnel records pertaining
15 to the person shall be sealed.

16 E. Members of the judiciary, district attorneys, the defendant,
17 the defendant's counsel and employees of juvenile bureaus, the
18 Office of Juvenile Affairs assigned juvenile court intake
19 responsibilities, and the Department of Corrections may access
20 records that have been sealed pursuant to this section without a
21 court order for the purpose of determining whether to dismiss an
22 action, seek a voluntary probation, file a petition, or for purposes
23 of sentencing or placement in a case where the person who is the
24 subject of the sealed record is alleged to have committed a

1 subsequent juvenile delinquent act or any adult criminal offense.

2 Provided, any record sealed pursuant to this section may be used in
3 a subsequent juvenile delinquent or adult prosecution only after the
4 issuance of a court order unsealing the record.

5 F. The court may issue an order unsealing sealed juvenile court
6 records, for use for the following purposes:

7 1. In subsequent cases against the same child pursuant to this
8 title;

9 2. In an adult criminal proceeding pursuant to Section 2-2-403
10 or 2-5-101 of this title;

11 3. Upon conviction of a criminal offense in an adult
12 proceeding, in connection with the sentencing of such person;

13 4. If the person is placed in the custody or under the
14 supervision of the Department of Corrections;

15 5. In accordance with the guidelines adopted pursuant to the
16 Juvenile Offender Tracking Program and Section 620.6 of Title 10 of
17 the Oklahoma Statutes, for maintaining juvenile justice and criminal
18 justice statistical information;

19 6. For the purpose of a criminal investigation; or

20 7. When the court finds that there is a compelling reason and
21 it is in the interest of justice to order the record unsealed.

22 G. Any person or agency having a legitimate interest in a
23 delinquency case or proceeding may petition the court for an order
24 unsealing a juvenile court record. Upon the filing of a petition to

1 unseal any juvenile court record, the court shall set a date for a
2 hearing and shall provide thirty (30) days of notice to all
3 interested parties. The hearing may be closed at the discretion of
4 the court. If, after a hearing, the court determines that there is
5 any reason enumerated in subsection F of this section and it is
6 necessary for the protection of a legitimate public or private
7 interest to unseal the record, the court shall order the record
8 unsealed.

9 H. Any record ordered to be sealed pursuant to this section, if
10 not unsealed within ten (10) years of the order, shall be
11 obliterated or destroyed at the end of the ten-year period; provided
12 that the records may be destroyed immediately after the respective
13 case has been adjudicated if, prior to their disposal or
14 destruction, they are reproduced on microfilm, optical disk or other
15 media produced pursuant to rules of the Oklahoma Supreme Court. The
16 Supreme Court of Oklahoma shall establish rules regulating the
17 electronic storage of judicial records provided in this section.

18 SECTION 7. AMENDATORY 10A O.S. 2011, Section 2-6-109, is
19 amended to read as follows:

20 Section 2-6-109. A. A person who is the subject of a juvenile
21 court record, that is not confidential as provided by law, may
22 petition the district court in which the juvenile court record is
23 located for an order to expunge all or any part of the record
24

1 pertaining to the person, except basic identification information;
2 provided:

3 1. The person has attained twenty-one (21) years of age or
4 older;

5 2. The person has not been arrested for any adult criminal
6 offense and no charge, indictment, or information has been filed or
7 is pending against the person at the time of the petition for an
8 expungement;

9 3. The person has not been subject to any deferred prosecution
10 or deferred sentence, and has not been convicted of any criminal
11 offense; and

12 4. All court costs, restitution, fines and other court-ordered
13 requirements have been completed for all juvenile proceedings.

14 B. Upon the filing of a petition for expungement of a juvenile
15 court record, the court shall set a date for a hearing, which
16 hearing may be closed at the court's discretion, and shall provide a
17 thirty (30) days' notice of the hearing to the district attorney,
18 the Office of Juvenile Affairs, the Oklahoma State Bureau of
19 Investigation, and any other person or agency whom the court has
20 reason to believe may have relevant information related to the
21 expungement of any record.

22 C. Upon a finding that the harm to privacy of the person in
23 interest or dangers of unwarranted adverse consequences outweigh the
24 public interest in retaining the records, the court may order the

1 records, or any part thereof except basic identification
2 information, to be expunged. If the court finds that neither
3 expungement of the records nor maintaining of the records unsealed
4 by the agency would serve the ends of justice, the court may enter
5 an appropriate order limiting access to the records. Any order
6 entered pursuant to the provisions of this subsection shall specify
7 those agencies to which the court order shall apply.

8 D. Upon the entry of an order to expunge any juvenile court
9 record, or any part thereof, the subject official actions shall be
10 deemed never to have occurred, and the person in interest and all
11 juvenile and criminal justice agencies may properly reply, upon any
12 inquiry in the matter, that no such action ever occurred and that no
13 such record exists with respect to the person.

14 E. Inspection of the records included in the order may
15 thereafter be permitted by the court only upon petition by the
16 person in interest who is the subject of the records, the Attorney
17 General, or by the district attorney and only to those persons and
18 for such purposes named in the petition.

19 F. Employers, educational institutions, state and local
20 government agencies, officials, and employees shall not, in any
21 application or interview or otherwise, require an applicant to
22 disclose any information contained in any expunged juvenile records.
23 An applicant need not, in answer to any question concerning arrest,
24 juvenile and criminal records, provide information that has been

1 expunged, including any reference to or information concerning
2 expungement and may state that no such action has ever occurred.
3 Such an application may not be denied solely because of the
4 applicant's refusal to disclose information that has been expunged.

5 G. Nothing in this section shall be construed to authorize the
6 physical destruction of any juvenile records.

7 H. For the purposes of this section, expunged materials which
8 are recorded in the same document as unsealed material may be
9 recorded in a separate document, and sealed, then obliterated in the
10 original document.

11 I. For the purposes of this act, district court index reference
12 of sealed material shall be destroyed, removed or obliterated.

13 J. Any record ordered to be expunged pursuant to this section
14 shall be sealed and, if not unsealed within ten (10) years of the
15 expungement order, may be obliterated or destroyed at the end of the
16 ten-year period; provided that the records may be destroyed
17 immediately after the respective case has been adjudicated if, prior
18 to their disposal or destruction, they are reproduced on microfilm,
19 optical disk or other media produced pursuant to rules of the
20 Oklahoma Supreme Court. The Supreme Court of Oklahoma shall
21 establish rules regulating the electronic storage of judicial
22 records provided in this section.

23 K. Subsequent to records being sealed as provided herein, the
24 district attorney, the Office of Juvenile Affairs, the Oklahoma

1 State Bureau of Investigation, or other interested person or agency
2 may petition the court for an order unsealing any records. Upon
3 filing of a petition, the court shall set a date for hearing, which
4 hearing may be closed at the court's discretion, and shall provide
5 thirty (30) days' notice to all interested parties. If, upon
6 hearing, the court determines there has been a change of conditions
7 or that there is a compelling reason to unseal the records, the
8 court may order all or a portion of the records unsealed.

9 L. Nothing herein shall prohibit the introduction of evidence
10 regarding actions sealed pursuant to the provisions of this section
11 at any hearing or trial for purposes of impeaching the credibility
12 of a witness or as evidence of character testimony pursuant to
13 Section 2608 of Title 12 of the Oklahoma Statutes.

14 M. A person who has attained eighteen (18) years of age or
15 older may petition the district or municipal court in which the
16 juvenile court record is located for an order to expunge all or any
17 part of the record pertaining to matters involving truancy provided
18 the person has met the criteria set forth in paragraphs 2 through 4
19 of subsection A of this section. The petition shall be reviewed by
20 the district or municipal judge with primary responsibility over the
21 juvenile court docket.

22 SECTION 8. This act shall become effective November 1, 2017.
23

24 56-1-924 MG 1/17/2017 10:00:35 AM