

Council on Law Enforcement Education and Training

2014 Legislative Update



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Please keep in mind that this document is, by necessity, a summary. If we were to copy all the new laws, this document would run to several thousand pages. Even a detailed summary of every provision would be hundreds of pages long, and that is simply not feasible. You are encouraged to read the complete laws, available at www.oscn.net. Click on 'legal research' and then click on 'Oklahoma Statutes Citationized'. You can get a complete history of each bill at the Oklahoma Legislature's website: <http://webserver1.lsb.state.ok.us/WebBillStatus/main.html>.

Title 47 – Motor vehicles

Sb 1257 – (Effective November 1, 2014) Amends **47 O.S. 1135.2** to allow a surviving spouse who receives 'Dependency and Indemnity compensation' from the V.A. to use a Disabled Veterans License Plate

HB 2328 - (emergency, effective May 5, 2014) amends two statutes concerned with oversize loads:

Amends **47 O.S. § 14-103G** to allow annual permits for transportation of portable buildings. Specific rules for sizes and weights are provided.

Also amends **47 O.S. § 14-118** to provide that the Oklahoma Load Limit Map be made available on the internet, and be updated at least every six months.

SB 503 (Emergency – effective immediately) makes two updates to the 2013 provision that allowed the seizure of license plates of persons who did not comply with the compulsory insurance laws.

Amends **47 O.S. § 7-606** to require the Sheriff to report the seizure of a license plate to the 'plan administrator', who is to maintain a database and report to the Oklahoma Tax Commission.

Amends **47 O.S. § 1114** to allow the Tax Commission to 'prohibit the issuance' of a replacement license plate until the owner of the vehicle proves compliance with the insurance laws.

Sb 1843 – (emergency – effective immediately) amends **47 O.S. § 7-606**, which concerns seizing license plates for failure to comply with compulsory insurance requirements. The copy of the citation can serve as a temporary license plate for ten 'calendar' days instead of ten 'working' days.

Sb 1332 – (emergency, effective July 1, 2014) amends two sections dealing with driver licenses.

Amends **47 O.S. § 6-105** to include a 'driver education course certified by a state other than Oklahoma' on the list of acceptable driver training.

Also amends **47 O.S. § 6-110** to allow an applicant for a Class D license to take the knowledge test online.

Hb 2387 – (Effective November 1, 2014), amends **47 O.S. § 6-106** to provide that a valid drivers license is sufficient proof of identity to obtain an 'identification card'.

Sb 232 – (Effective July 1, 2014) amends several Sections in **Title 47** dealing with pay for members of the Oklahoma Highway Patrol.

Title 10 and 10A - Children

Sb 639 (Emergency – effective immediately) amends **74 O.S. § 150.38** to lower the training and experience requirement for law enforcement officers and forensic examiners to be employed on the Child Abuse Response Team. Also allows employees of OSBI to be assigned to 'CART'.

SB 1182 (Effective November 1, 2014) amends **10A O.S. § 1-2-102**, which concerns a 'safety analysis' of 'abused, neglected or drug-endangered' children. This amendment allows DHS to 'employ or contract with 'active or retired social work, medical and law enforcement professionals' to provide investigative support, serve as 'consultants to caseworkers' and act as 'liaisons' to 'develop relationships with local law enforcement agencies'.

HB 2541 (Effective November 1, 2014) amends Sections in **Title 10A** and **Title 70** concerning juveniles.

Amends **10A O.S. § 2-8-221**, changing the prohibition of transmitting 'erotic' material to 'child pornography'. Requires that a juvenile who violates the section must complete an 'educational program' or a 'delinquency preventing and diversion program'. The parent of the juvenile may also be required to attend.

An affirmative defense is provided if the juvenile did not solicit the image, and did not subsequently distribute the image except for reporting it to the appropriate authorities.

Also amends **70 O.S. § 24-100.4** to clarify that school 'bullying' policies should require reporting of bullying to a law enforcement agency.

Sb 1781 (Effective November 1, 2014) amends **10A O.S. § 2-3-101**.

Whenever a juvenile is placed in any jail, adult lockup, or other detention facility, the Office of Juvenile Affairs 'shall have access' to all facilities and access to any data regarding such juveniles. OJA has access to all jails, adult lockups, or other adult facilities in this state, including data, to assure compliance.

Hb 1384 (Effective November 1, 2014) enacts a new law to be codified at **25 O.S. § 2001 et seq.**, known as the 'Parents' Bill of Rights'. The intent is that a 'governmental entity' may not 'infringe' on the rights of parents to control the lives of their children without showing a 'compelling governmental interest... of the highest order' and the remedy is 'narrowly tailored' and cannot be served by a 'less restrictive means'.

The rights iterated in the Act are set out in other statutes but it appears the legislature and governor thought it necessary to collect them in this statute. These rights include:

1. To direct the education of the minor child;
2. All rights of parents 'identified in Title 70' including the right to access and review all school records;
3. To direct the 'upbringing' of the child;

4. To direct the moral or religious training of the child;
5. To make healthcare decisions for the child, unless otherwise prohibited by law’;
6. To access and review all medical records of the child unless ‘otherwise prohibited by law’ or the parent is the subject of an investigation for a crime against the child and a ‘law enforcement official requests’ that the information not be released;
7. To consent in writing before a biometric scan of the minor child is made, shared or stored;
8. To consent in writing before any record of the minor child's blood DNA is created, stored or shared, except as required by Oklahoma Statutes, or ‘authorized by a court order’;
9. To consent in writing before the state (or political subdivision) makes a video or voice recording of the child, unless made as a part of a court proceeding, or by law enforcement officers as part of an investigation, or as part of a ‘forensic interview’ in a criminal or DHS investigation or to be used solely for any of the following:
 - a. safety demonstrations, including the maintenance of order and discipline in the common areas of a school or on student transportation vehicles,
 - b. a purpose related to a ‘legitimate’ academic or extracurricular activity,
 - c. a purpose related to ‘regular’ classroom instruction,
 - d. surveillance of buildings or grounds, and
 - e. a photo identification card; and
10. The right to be notified promptly if an employee of this state, (or political subdivision), or ‘any other governmental entity’ or ‘any other institution’ suspects that a criminal offense has been committed against the child by someone other than a parent, ‘unless the incident has first been reported to law enforcement’ and notification would ‘impede a law enforcement or DHS investigation’.

Hb 2536 (Emergency – effective immediately) enacts a new law to be codified at **10 O.S. § 700**. Under this law, a parent or ‘legal custodian’ of a child may execute a Power of Attorney to ‘delegate to another person’, for no longer than one year, powers regarding the care and custody of the child, ‘except the power to consent to marriage or adoption’ of the child, ‘inducement of an abortion’, or the ‘termination of parental rights’. This power of attorney does not deprive the parent or legal custodian of any ‘parental or legal authority regarding the care and custody’ of the child.

Also enacts a new law to be codified at **10 O.S. § 701** providing the form of the power of attorney.

Amends **10 O.S. § 403** to clarify that care provided by an attorney-in-fact does not require licensing under the Child Care Facilities Licensing act, if continuous and without compensation.

Sb 1612 (Effective November 1, 2014) amends **43 O.S. § 113.3** to provide forms for a motion to enforce child visitation, and modifies the procedure for hearing the motion.

Also requires that any court order for visitation shall provide that the custodial parent has a 'duty to facilitate visitation' of a child with the noncustodial parent.

Hb 2585 – (Effective November 1, 2014) enacts a new law to be codified at **10A O.S. § 1-4-807.1**. When a child is the subject of a deprived action, any party may request an emergency hearing concerning harm or threatened harm to the child. The hearing is to be held in 72 hours of the application. The Court's contempt powers are available to punish parties who request a hearing based on false information. The Bill makes it clear that the court retains the ability to enter emergency orders *sua sponte*.

Sb 1914 (Emergency – Effective immediately) amends **10A § 2-2-402** to provide that any 'arrest or detention under the Oklahoma Juvenile Code' or any 'adjudication in a juvenile proceeding' is not an 'arrest, detention or conviction' for purposes of employment, civil rights, or any statute, regulation, license, questionnaire, or application, unless otherwise provided by law.

SB 1520 (Emergency – Effective July 1, 2014) amends **10A O.S § 2-6-102** to allow the Oklahoma School for the Deaf and the Oklahoma School for the Blind to access otherwise confidential juvenile records without a court order.

Title 57 – Prisons

Hb 2486 – (effective November 1, 2014) amends Title **57 O.S. § 549** to exclude persons who have been sentenced to *life without parole* from the inmate wages provisions.

Sb 1431 – (Effective November 1, 2014) amends **57 O.S. § 582** to require any person convicted of an offense involving human trafficking for commercial sex to register as a sex offender.

Hb 3016 (Effective November 1, 2014) amends **57 O.S. § 583** to require registered sex offenders to register with local law enforcement if the sex offender 'resides or intends to reside' in the jurisdiction fourteen days in a sixty-day period. This is in addition to the existing 'seven consecutive days' requirement.

Sb 1444 (Effective November 1, 2014) amends **57 O.S. § 584** to provide that sex offenders 'shall be photographed by the local law enforcement authority' if the photograph in the DOC sex offender registry is more than one year old, or 'if it cannot be determined when the photograph in the registry was taken'.

Sb 1364 – (Effective November 1, 2014) Amends **21 O.S. § 1125**. A registered sex offender (whose victim is under 16, instead of under 3) may not be in a 'park', defined as any outdoor public area designed for recreation that is 'operated or supported in whole or in part' by a homeowners association or a government authority.

Sb 1421 – (Effective November 1, 2014) amends **12 O.S. 1631** to prohibit a registered sex offender from having an official change of name.

Title 63 – Public health and safety

Hb 3156 – (Emergency, effective immediately) enacts a new law to be codified at **63 O.S. § 683.35**, setting out the requirements *for broadcasters to be considered 'first informers'*. These broadcasters will be certified, by the Board of Emergency Management and a 'state-wide organization' of broadcasters. Governmental agencies 'shall allow a first informer broadcaster access' to an emergency area to restore, repair, or resupply any equipment critical to broadcasting, and for 'transporting fuel' for generators, if all this is consistent with 'not endangering public safety or inhibiting recovery efforts'.

Sb 1875 (Effective November 1, 2014) amends the expungement statutes found at **63 O.S. § 2-410 and 22 O.S. § 991c** to provide that records expunged pursuant to these laws shall be sealed to the public but not to law enforcement agencies for law enforcement purposes. These expunged records 'shall be admissible in any subsequent criminal prosecution to prove the existence of a prior conviction or prior deferred judgment'.

Sb 1905 (Effective November 1, 2014) enacts a new law to be codified at **63 O.S. § 1-1712** which concerns medical liability actions. The failure of a health care provider to comply with, or a breach of the federal Patient Protection and Affordable Care Act and any regulation, program, guideline or other provision established by the Act, is not admissible in any medical liability action in this state.

Hb 2379 – (Effective November 1, 2014) amends **63 O.S. § 2-508** to allow seized and forfeited items to be sold using online auctions.

Hb 2665 – (Effective November 1, 2014) amends **63 O.S. § 2-309D** to allow the Director of OBN to exchange prescription monitoring information with officials from other states pursuant to reciprocity agreements.

Hb 2666 – (Effective November 1, 2014) amends the schedules of CDS found in **Title 63**. This involves synthetic CDS and other chemicals, and is very technical and beyond the scope of this update.

Title 29 – Conservation Code

Hb 2618 (Effective November 1, 2014) enacts a new law to be codified at **29 O.S. § 4-135.1** to require a person have a 'nuisance wildlife control operator permit' to trap, capture, possess, transport, relocate or euthanize any nuisance wildlife for commercial purposes'.

Animals considered 'nuisance wildlife' are identified in several §s in Title 29. These include: beaver, coyote, deer, bobcat, raccoon, crow, feral swine, and water turkey ('double-crested cormorant').

Hb 3135 (emergency – Effective immediately) amends **29 O.S. § 4-112** to remove quail to the list of game which may be hunted on a five day hunting license for non-residents. The list is currently deer, antelope, elk, turkey, or bear.

Title 59 – Professions and Occupations

Sb 1407 – (effective November 1, 2014) amends **59 O.S. § 1750.3** and **§ 1750.6**, concerning PS and PI licenses. CLEET may immediately suspend a security guard or private investigator license if the licensee's actions present a danger to a family or household member, or involve a crime against a minor.

Also requires a written request for a refund of statutory fees be made within 6 months if the refund is for any reason other than disqualification or denial.

Hb 3160 (Effective November 1, 2014) amends the 'Scrap Metal Dealers Act' found at **59 O.S. § 1430**. The Oklahoma Department of Agriculture, Food, and Forestry may take administrative action against anyone who acts, or holds themselves out, as a scrap metal dealer without complying with the Statutes and Rules. The administrative penalty is \$100.00 to \$10,000.00 and each action or day a violation continues is a separate violation.

Political subdivisions

SB 1497 – (Effective November 1, 2014) amends the Open Meetings Act found at **25 O.S. § 314** to allow any person to file a civil suit against a public body for failure to comply with the act. If successful, the person may also recover reasonable attorney fees. If the court finds that the suit was 'clearly frivolous' the public body is entitled to reasonable attorney fees.

Sb 1858 – (Effective November 1, 2014) amends **11 O.S. § 23-108** concerning insurance for employees of municipalities. A municipality that offers health insurance plans to retired individuals may offer a plan that includes certain Medicare plans. A retired employee may elect coverage under any plan offered by the last employing municipality, including health plans 'targeted for retirees and Medicare eligible retirees'.

SB 212 – (Emergency, Effective April 9, 2014) amends **11 O.S. § 50-107** to require that refunds of excess amounts paid by a participating municipality or member by mistake be paid within one year. The amount refunded does not include 'earnings attributable' to the contribution, and will be reduced by the amount of any losses 'attributable to such contribution'. Also makes technical accounting changes beyond the scope of this update.

Hb 3215 – (Effective November 1, 2014) amends **20 O.S. § 1313.7**. The dollar limit for a county jail to apply for reimbursement of medical costs under the 'Medical Expense Liability Revolving Fund' is reduced from \$8,000 to \$6,000.

Sb 1737 – (Effective November 1, 2014) concerns jail standards found at **74 O.S. § 192**. The requirement that inmates have 'no less than forty (40) square

feet of floor space per inmate' (and other details) is changed to inmates must have a 'useable bed as determined by the American Correctional Association Standards'.

Sb 1738 (Effective November 1, 2014) amends **19 O.S. § 517.1** to set a minimum of seven years to retain county records 'if the sheriff is the sole source for such records'. There previously was no limit on how long these records should be kept. *Before destroying records, be sure that any evidence is handled as required by law.*

Sb 1023 – (emergency, effective July 1, 2014) enacts a new law to be codified at **Title 40, § 160**. This prohibits political subdivisions from mandating minimum wages and mandatory minimum vacation or sick leave days. The entire field is pre-empted by State law.

Hb 2320 – (Effective November 1, 2014) Repeals **66 O.S. § 99**. The effect is that a railroad station or depot may now be named something other than the name of the town or city.

Hb 2397 (Effective November 1, 2014) makes some changes in the State Travel Reimbursement Act found in **Title 74**.

Amends **§ 500.2** to discontinue the use of social security numbers in airline travel claims, and to permit the travel claim to be used instead of an affidavit.

Amends **§ 500.9** to make changes to include a ten-dollar lodging per diem when lodging has been provided at no cost to the State, and to apply the twenty-four hour limit to in-state travel

Hb 3177 – (emergency, effective May 10, 2014) enacts a new law to be codified at **80 O.S. § 50**. If the United States closes or fails to open a road on 'any property owned and operated by the US. Army Corps of Engineers' due to loss of federal funds because of a shutdown 'or any other reason' the County commissioners may declare the road as 'needed for an emergency route'. The county may then open and maintain the road.

Hb 2405 – (Emergency, effective immediately) amends **51 O.S. § 152** ('Governmental Tort Claims Act', affectionately known as the 'GTCA') to include within the Act's restrictions any tort claims made pursuant to Oklahoma's Constitution.

Also amends **51 O.S. § 153** to provide that if a court finds tort liability on the part of the state or a political subdivision based on a provision of the Oklahoma Constitution or state law other than the GTCA, the limits of liability provided for in The GTCA apply.

Hb 2774 – (Effective November 1, 2014) amends **38 O.S. § 28** to allow municipal police officers to serve as jurors in non-criminal trials.

Hb 3018 – (effective November 1, 2014) enacts several new laws in **Title 69**, naming roads and bridges

- Ronald Reagan
- Charles 'Chub' Shaw
- 2nd Lt. Joe Lee Cunningham
- Fire Chief Nolan Schmidt
- Sheriff Frank Phillips
- Airman Kamenski D. Watson
- Wayne Chandler, Sr.
- Warrior Highway
- Veterans Memorial Highway
- Ethel Hedgeman Lyle
- J.C. Malcolm

Title 12 – Civil Procedure

Hb 2366 (Effective November 1, 2014) enacts a new law to be codified at **12 O.S. § 1430 et seq.**, known as the 'Oklahoma Citizens Participation Act'. The purpose is to 'encourage and safeguard the constitutional rights of persons to petition, speak freely, associate freely and otherwise participate in government to the maximum extent permitted by law and, at the same time, protect the rights of a person to file meritorious lawsuits for demonstrable injury'. This is to be done by limiting lawsuits (through an early motion to dismiss and hearing) against people who 'petition, speak, associate, and otherwise participate'. The Act is not intended to 'abrogate or lessen any other defense, remedy, immunity or privilege available under other constitutional, statutory, case or common law or rule'.

Hb 2591 – (Effective November 1, 2014) enacts a new law to be codified at **12 O.S. § 2611.12** to allow a child witness to have a 'support person' or a 'certified therapeutic dog accompanied by the handler' when testifying.

Also amends **12 O.S. § 2611.2** to allow the same privileges for an 'incapacitated witness'.

Hb 3375 (Effective November 1, 2014) amends the discovery code in **Title 12 O.S. § 3226**. The 'Discovery Code' is used to exchange evidence for use at trials and hearings. A party who is claiming 'physical or mental injury' in a lawsuit 'shall provide to the other parties a release or authorization allowing the parties to obtain relevant medical records and bills, and, when relevant, a release or authorization for employment and scholastic records'.

Hb 2998 (Effective November 1, 2014) enacts a new law to be codified at **51 O.S. § 24A.30** making district court documents open records 'unless otherwise identified by statute to be confidential'. Otherwise court records may be sealed only if 'a compelling privacy interest exists which outweighs the public's interest in the record'.

Also enacts a new law at **12 O.S. § 32.1A** requiring the state Supreme Court to enact rules to make the internet display of court records consistent across all counties, and directing court clerks to follow those rules.

Title 21 – crimes and punishments

Sb 2046 (Effective November 1, 2014) amends two Sections concerning domestic A&B:

Amends **21 O.S. § 644** to provide that any plea of guilty or nolo contendere to, or 'finding of guilt' of, violating this § constitutes a 'conviction' for the purpose of any subsection under which the existence of a prior conviction is relevant for a period of 10 years following the completion of any sentence or probationary term

Also Amends **21 O.S. § 644.1** to change the definition of 'prior pattern of physical abuse' to mean three or more separate incidences, 'including the current incident', occurring on different days, where all occurred within the previous twelve-month period (instead of six months), and each incident relates to an act constituting assault and battery or domestic abuse where 'proof of each incident prior to the present incident' is established by the sworn testimony of a third party eyewitness or by other admissible direct evidence that is 'independent of the testimony of the victim'.

Hb 2526 – (Effective November 1, 2014) amends **21 O.S. § 142A-3** to add a list of questions for the officer to ask when investigating domestic violence. This is to be done on a 'lethality assessment form' and must include (but not be limited to)

1. Has the person ever used a weapon against the victim or threatened the victim with a weapon?
2. Has the person threatened to kill the victim or children of the victim?
3. Does the victim think the person will try to kill the victim?
4. Has the person ever tried to choke the victim?
5. Is the person violently or constantly jealous or does the person control most of the daily activities of the victim?
6. Has the victim left or separated from the person after living together or being married?
7. Is the person unemployed?
8. Has the person ever tried to kill him or herself?
9. Does the victim have a child that the person knows is not his or her own child?
10. Does the person follow or spy on the victim or leave the victim threatening messages?
11. Is there anything else that worries the victim about his or her safety and if so, what worries the victim?

Based upon the results of the lethality assessment, referrals to shelters, domestic violence intervention programs and other social services 'shall be provided to the victim' by the officer.

Hb 2334 - (Emergency, effective immediately) amends the child abuse statute found at **21 O.S. § 843.5**. Most of the changes involve inserting a definition of the prohibited act in this statute, and removing references to crime definitions found in title 10A. Some of the definitions (language with strike-through's is removed from the statute, underlined words are added to the statute):

"child abuse" means the willful or malicious abuse, as defined by paragraph 2 of § 1-1-105 of Title 10A of the Oklahoma Statutes, harm or threatened harm or failure to protect from harm or threatened harm to the health, safety, or welfare.

"enabling child abuse" means the causing, procuring or permitting of a willful or malicious act of child abuse, as defined by paragraph 2 of § 1-1-105 of Title 10A of the Oklahoma Statutes, harm or threatened harm or failure to protect from harm or threatened harm to the health, safety, or welfare of a child under eighteen (18) years of age by another.

"child sexual abuse" means the willful or malicious sexual abuse, as defined by subparagraph b of paragraph 2 of § 1-1-105 of Title 10A of the Oklahoma Statutes, which includes but is not limited to rape, incest, and lewd or indecent acts or proposals, of a child under eighteen (18) years of age by another.

"enabling child sexual abuse" means the causing, procuring or permitting of a willful or malicious act of child sexual abuse, as defined by subparagraph b of paragraph 2 of § 1-1-105 of Title 10A of the Oklahoma Statutes, which includes but is not limited to rape, incest, and lewd or indecent acts or proposals, of a child under the age of eighteen (18) by another.

"child sexual exploitation" means the willful or malicious sexual exploitation, as defined by subparagraph c of paragraph 2 of § 1-1-105 of Title 10A of the Oklahoma Statutes, which includes but is not limited to allowing, permitting, or encouraging a child under eighteen (18) years of age to engage in prostitution or allowing, permitting, encouraging or engaging in the lewd, obscene or pornographic photographing, filming, or depicting of a child under eighteen (18) years of age by another.

"enabling child sexual exploitation" means the causing, procuring or permitting of a willful or malicious act of child sexual exploitation, as defined by subparagraph c of paragraph 2 of § 1-1-105 of Title 10A of the Oklahoma Statutes, which includes but is not limited to allowing, permitting, or encouraging a child under eighteen (18) years of age to engage in prostitution or allowing, permitting, encouraging or engaging in the lewd, obscene or pornographic photographing, filming, or depicting of a child under eighteen (18) years of age by another

Hb 2353 - (Effective November 1, 2014) amends **21 O.S. § 748** to increase the penalties for human trafficking.

-it will be an 85% crime

-the term of imprisonment is increased to five years to life, and the possible fine is increased from \$20,000 to \$250,000.

-consent of the victim is not a defense.

Sb 1433 - (Effective November 1, 2014) amends two statutes concerning human trafficking.

Amends **21 O.S. § 13.1** to provide that a person convicted of human trafficking (§ 748) must serve 85% of the sentence prior to becoming eligible for consideration for parole.

Amends **21 O.S. § 748** for the same purpose, and provides that consent of any 'victim' (minor or not) 'shall not constitute a defense' to the charge.

Hb 3496 (Effective November 1, 2014) enacts a new law to be codified at **Title 21 O.S. § 870**. Every person 'having reason to believe that a person or child-placing agency is engaging in the crime of trafficking in children' shall report the matter promptly to the OBNDD. The Bureau shall notify the district attorney.

1. No evidentiary privileges apply.
2. The reporting requirements are individual, and no employer, supervisor or administrator shall interfere with the reporting requirement.
3. Any person who knowingly and willfully fails to promptly report or who interferes with the prompt reporting of trafficking in children and who is licensed by a state entity shall be reported to the licensing entity and may be subject to discipline.

Sb 989 – (Effective November 1, 2014) amends **21 O.S. § 1541.4** to include checks written 'as payment made to a landlord under a lease or rental agreement' in the definition of 'bogus checks' for criminal prosecution purposes.

The definition of bogus check is found in **68 O.S. § 218.1**: "the term 'false or bogus check or checks' shall include any check or order which is not honored on account of insufficient funds of the maker to pay same, or because the check or order was drawn on a closed account or on a nonexistent account".

Sb 1371 (Effective November 1, 2014) amends **21 O.S. § 2001** concerning unlawful proceeds of crimes and items used to commit crimes. Basically it is a crime to deal any way with proceeds of crimes or items to be used to commit crimes. A definition is given for 'specified unlawful activity': 'an act or omission, including any initiatory, preparatory, or completed offense or omission that is punishable as a misdemeanor or felony under the laws of Oklahoma', or if the act occurred outside Oklahoma would be punishable under Oklahoma law

Punishment is:

- Up to one year, if the violation involves \$2,500.00 or less;
 - Up to 2 years if the violation involves more than \$2,500.00, but not more than \$10,000.00;
 - 2 to 10 years if the violation involves more than \$10,000.00, but not more than \$50,000.00; or
 - 5 to 20 years if the violation involves more than \$50,000.00.
- In addition to any criminal penalty, a person is also subject to a civil penalty of 3 times the value of the property in the transaction. The civil penalty is to be 'split evenly' between the prosecuting agency and the investigating agency.

Hb 2888 – (Effective November 1, 2014) amends **21 O.S. § 1290.9** to include spouses of military personnel permanently assigned to Oklahoma in the definition of 'resident' for handgun licensing.

Hb 2594 – (Effective November 1, 2014) amends **21 O.S. § 1290.5** to allow payments for handgun licenses to be made by electronic funds transfers.

Hb 2692 – (Effective November 1, 2014) amends **21 O.S. § 1290.5** to extend the grace period on renewals of handgun licenses from thirty days to ninety days.

Hb 2874 (Effective November 1, 2014) amends **21 O.S. § 1290.14** to provide that a 'certificate of completion' of an SDA handgun license class is valid for three (3) years. Also requires the SDA instructor to keep a roster of each training class for at least 3 years. This is to include the 'safety test score of each individual', type and caliber of weapon used and whether the course was successfully completed. These records may be destroyed by the instructor after 3 years.

Hb 2840 (Effective November 1, 2014) amends **21 O.S. § 1283** ('convicted felons and delinquents') to extend the prohibition on possession of firearms to those who are 'serving a term of probation for any felony in any court of this state or of another state or of the United States or under the jurisdiction of any alternative court program'.

'Alternative court program' means, for purposes of this statute, 'drug court, Anna McBride or mental health court, DUI court or veterans court'.

Sb 1471 – (Effective November 1, 2014) amends **21 O.S. § 1290.13** to allow OSBI to release the fingerprints of a deceased person (obtained for SDA application purposes) to an 'immediate family member' of the deceased person.

SB 1442 (Effective November 1, 2014) amends several statutes concerning carry of firearms by Judges, Attorneys General, U.S. Attorneys, and District Attorneys. Most of this is housekeeping. The bill does clarify that CLEET may issue identification cards and that these cards must be returned if the person is no longer eligible.

HB 2496 – (Effective November 1, 2014) amends **21 O.S. § 1280.1** to allow certain weapons on school property:

Including a 'gun, knife, bayonet or other weapon in the possession of a member of a veterans group, the national guard, active military, the Reserve Officers' Training Corps (ROTC) or Junior ROTC' to 'participate in a ceremony, assembly or educational program'. The gun or 'other weapon that uses projectiles' must be unloaded and not operable 'while on school property'.

Hb 2614 – (Effective November 1, 2014) amends two statutes concerning guns (held by people with handgun licenses) at elementary and secondary schools.

Amends **21 O.S. § 1277** ('unlawful carry in certain places') to allow a handgun in vehicles on school parking lots, attended or unattended. The handgun must be 'stored and hidden from view in a locked motor vehicle when the motor vehicle is left unattended'.

This amendment also removes the administrative penalty for violation, while retaining the criminal penalty.

The definition of 'motor vehicle' was clarified, and motorcycles are not included in this definition.

21 O.S. § 1280.1 ('Possession of firearm on school property') has similar changes.

The penalty for a violation is reduced from a felony (2 years and \$5,000) to a misdemeanor with a fine of \$250. Revocation of the handgun license is no longer required.

Sb 1845 (Effective July 1, 2015) makes several changes related to the SDA, in **Title 21** and **Title 43A**, concerning preclusion from eligibility for a handgun license.

Enacts a new law to be codified at **21 O.S. § 1290.27**. A person who has been adjudicated incompetent (and thus precluded from obtaining a handgun license) to petition the court 'to remove the disability'. The court is to set a hearing within 30 days to consider:

1. Psychological or psychiatric evidence from the petitioner and in support of the petition;
2. The circumstances that resulted in the firearm disabilities;
3. The petitioner's criminal history records provided by the state, if any;
4. The petitioner's mental health records;
5. The reputation of the petitioner based on character witness statements, testimony or other character evidence;
6. Whether the petitioner is a danger to self or others;
7. Changes in the condition or circumstances of the petitioner since the original adjudication of mental incompetency or involuntary commitment for a mental illness, condition or disorder relevant to the relief sought; and
8. Any other evidence deemed admissible.

The court is to grant the order (that is, to allow the issuance of a handgun license) if the person shows by 'clear and convincing evidence' that the 'petitioner is not likely to act in a manner that is dangerous to the public safety' and granting relief is 'not contrary to the public interest'.

Necessary changes are made in **21 O.S. § 1290.10** and **§ 1290.11** to comply with the new statute.

Sb 1824 – (Effective November 1, 2014) amends **21 O.S. § 142A-1** and **§ 142A-14** (Victims Rights Act) to include adopted parents or children, stepparents, grandchildren, and step-siblings in the definition of 'immediate family'

Sb 1602 (Effective November 1, 2014) amends **21 O.S. § 1241 et seq.** to add 'tobacco vapor products' to the list of prohibited items in the 'Prevention of Youth Access to Tobacco Act'.

A 'Vapor product' is defined as noncombustible products, that may or may not contain nicotine, that employ a mechanical heating element, battery, electronic circuit, or other mechanism to produce a vapor in a solution or other form. The definition includes 'any vapor cartridge or other container with or without nicotine' that is intended to be used with an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

'Vapor products' do not include any products regulated by the United States Food and Drug Administration.

Hb 2568 – (Effective November 1, 2014) amends **21 O.S. § 388** to increase the punishment for 'jury tampering' from a misdemeanor to a felony with incarceration up to 10 years and/or a fine of up to \$5,000

SB 72 (effective November 1, 2014) amends **21 O.S. § 649.1** to provide that it is a crime to strike or use a nonpoisonous desensitizing substance against police dogs or police horses. Requires restitution to the agency or political subdivision.

Also amends **§ 649.2** to include administering poison, or setting a booby trap, or paying or agreeing to pay a bounty for injuring the animal.

Creates two exceptions: (1) a peace officer or vet who euthanizes the animal to prevent undue pain or suffering, and (2) a police dog that is off duty and running loose without supervision of a peace officer and gets run over or is a threat to the public.

Hb 2587 – (Effective November 1, 2014) amends **56 O.S. § 243**, concerning food stamp fraud. The definition of 'to traffic or trafficking in food stamps' is changed to include:

- buying, selling, stealing, or otherwise exchanging food stamp benefits by any means, for cash or consideration other than eligible food, directly, indirectly, with others, or acting alone;

- exchanging firearms, ammunition, explosives, or controlled substances for food stamps

- possessing stolen food stamp electronic benefit transfer cards, benefit or debit cards;

- using food stamps to purchase a product that has a container requiring a return deposit to obtain cash by discarding the product and returning the container for the deposit amount.

- Purchasing a product with food stamps to obtain cash or consideration other than eligible food by reselling the product.

- purchasing products originally purchased with food stamp benefits in exchange for cash or consideration other than eligible food.

Sb 1706 (Effective November 1, 2014) amends **56 O.S. § 241.4** to set out new penalties for TANF recipients who violate restrictions on use of TANF cards. They will be subject to a reduction in benefits as follows:

- For the first violation, 25% of the individual's TANF payment standard for a period of 3 months;

- for a second violation, 35% for six 6 months;

- for a third violation 50% for 12 months;

- subsequent violations 'shall result in the individual being deemed permanently ineligible'. Individuals with children shall only be eligible to receive benefit payments for dependent children.

Sb 1715 – (Effective November 1, 2014) makes changes in several Sections related to alcoholic beverages:

- Amends **37 O.S. § 506** to define a 'public event' as 'any event that can be attended by the general public'. The term 'public event' is then inserted into several statutes dealing with licenses and requirements for licensees.

- Amends **37 O.S. § 521** to provide that 'an annual public event license' will allow the licensee to sell and distribute for up to six events (each not to exceed three consecutive days) per year. Notice must be given to ABLE at least ten days

in advance. This amendment also provides that certain charitable events may serve alcoholic beverages including wine, spirits, and beer.

-Amends **37 O.S. § 523** to require licensees to provide proof of liability insurance.

-Amends **37 O.S. § 537** to clarify that licensees may not permit any person to be 'drunk or intoxicated' on the licensed premises. The penalty is up to 30 days in jail and/or a fine of up to \$100.00 (**§ 538**).

Title 22 – criminal procedure

Hb 2342 (Effective November 1, 2014) affects three statutes concerning search warrants:

Amends **22 O.S. § 1221** to define 'personal property' and 'property' to mean 'items and information that can be analyzed, seen, weighed, measured, felt, or touched', or are perceptible to the senses 'in any other manner'. (*'Property' was already defined in 25 O.S. § 26 as 'property, real and personal'. 'Personal property' was already defined in the same statute as to include 'money, goods, chattels, things in action and evidences of debt'.*)

Amends **22 O.S. § 1225** to permit a proposed search warrant or affidavit to be communicated to the magistrate by telephone or e-mail or any 'similar electronic communication' which delivers a 'complete printable image of the warrant or affidavit'. Some specific procedures are set out in the statute:

1. If the proposed search warrant is communicated telephonically, the affiant shall:
 - a. recite information establishing probable cause to support issuance of the search warrant, and
 - b. recite the proposed search warrant to the magistrate verbatim and obtain the oral permission of the magistrate to print the name of the magistrate on the search warrant along with the date and time of the signature.

The oral recorded authorization of the magistrate to print the name of the magistrate on the search warrant shall constitute issuance of the search warrant under this Section. The conversation establishing probable cause, reciting the contents of the search warrant verbatim and any authorization to sign by the magistrate shall be audio-recorded, transcribed and filed together with the warrant in accordance with § 1223.1 of this title.

If communication of the proposed affidavit is made by electronic mail or other electronic communication, the affidavit may contain a notarized acknowledgement or the affiant may swear to the affidavit by telephone. A magistrate administering an oath telephonically shall endorse upon the face of the affidavit the date and time which the affiant undertook the oath by telephone.

- a. A warrant may be issued by the magistrate pursuant to this sub§ by physically signing a printed copy of the affidavit and proposed warrant and transmitting said documents back to the affiant by electronic mail or other electronic communication. The printed copy received by the affiant shall constitute a search warrant and be executed as such. After execution, the

search warrant shall be filed along with the printed copy of the affidavit received by the affiant, as provided for in § 1233 of this title.

b. A magistrate may also issue a warrant pursuant to this paragraph without printing and signing a physical copy of the affidavit and warrant by return electronic communication to the affiant authorizing issuance of the warrant as submitted, or as modified by the magistrate, provided a copy of the modified document is included with the return electronic communication to the affiant.

Also amends **22 O.S. § 1231**, which concerns the execution and return of a search warrant within 10 days. If the search warrant authorizes a 'forensic, scientific or digital analysis' of items already in the custody of law enforcement, the search must be commenced within a 'reasonable time' and the return made within 10 days following the completion.

Hb 2859 (Effective November 1, 2014) amends 22 O.S. § 472 to require the judge in mental health court cases to 'recognize relapses and restarts' in the program. The court is to use 'progressively increasing sanctions or providing incentives', rather than 'removing the offender from the program' when a violation occurs, except when the offender's conduct requires revocation. Any revocation from the mental health court program shall require notice to the offender and other participating parties and a hearing.

Sb 1600 – (Effective November 1, 2014) amends 22 O.S. § 196 to clarify that an officer may make a warrantless arrest for an accident involving DUI or APC in 'other public places, or upon any private road, street, alley or lane which provides access to one or more single- or multi- family dwellings'

Title 70 – schools

Sb 1474 (Effective November 1, 2014) amends 70 O.S. § 3311 (CLEET's basic statute):

- several housekeeping changes - deleting obsolete provisions, fixing gender references, that type of clean-up.

- clarifies that the Executive Director may commission peace officers for 'purposes consistent with the duties of CLEET as set out in State law. CLEET commissioned officers may request assistance from state, county, or municipal law enforcement agencies. This amendment does not limit the powers or jurisdiction of other peace officers.

- Law Enforcement agencies must perform a background check of new hires.

This will mean a change in how new hires are reported to CLEET. No person 'shall be eligible for employment as a peace officer or reserve peace officer' until the employing agency has conducted a background investigation including, but not limited to:

- a fingerprint search submitted to the Oklahoma State Bureau of Investigation with a 'return report' to the submitting agency that such person has no felony record,
- a fingerprint search submitted to the Federal Bureau of Investigation with a return report to the submitting agency that such person has no felony record,

- a psychological evaluation by a psychologist licensed by the State of Oklahoma and an evaluation that the person is suitable to serve as a peace officer,
- verification by the employing agency that the employee has a high school diploma or a GED equivalency certificate as recognized by state law,
- the person is not participating in a deferred sentence agreement for a felony, a crime involving moral turpitude, or a crime of domestic violence.
- the person is not currently subject to a CLEET order revoking, suspending, or accepting a voluntary surrender of peace officer certification,
- the person is not currently undergoing treatment for a mental illness, condition or disorder.
- the person is twenty-one (21) years of age,
- the person has provided proof of United States citizenship or resident alien status.

-clarifies that a non-certified Peace Officer may serve for only six months before being required to be certified.

-adds 'transport prisoners' to the list of duties in the definition of Peace Officer.

-allows CLEET to assess an administrative fine for failure to report employments and terminations within 10 days, or failure to provide a list of employees each year by October 1.

-allows CLEET to assess an administrative fine for intentionally making false statements in documents supplied to CLEET pursuant to statute.

-adds 'any violation of the ... Private Security Act' to the list of grounds for disciplinary actions against Peace Officers. This is intended to cover peace officers who violate the Act while working as private security guards.

-adds 'agencies, bail enforcers, security guards and private investigators' to the list of entities which 'shall maintain' with CLEET 'current residential addresses'. If CLEET mails a notice or an order to the 'address on file with the Council' and the letter is returned with a notation of 'unclaimed', or 'moved', or 'refused' or 'any other nondelivery markings' and the records of the Council indicate that no change of address has been received, the notice and any subsequent notices or orders 'shall be deemed by the Court as having been legally served'.

Hb 3350 (Effective November 1, 2014) enacts a new law to be codified at **70 O.S. § 14-130**, providing a new 'service benefit' in the form of a tuition waiver at Career Technology Centers for children of...

1. Oklahoma peace officers as defined by Oklahoma Statutes who have given their lives in the line of duty;
2. Oklahoma firefighters who have given their lives in the line of duty;
3. Members of the Oklahoma Law Enforcement Retirement System who have given their lives in the line of duty or whose disability is by means of 'personal and traumatic injury of a catastrophic nature', and occurred in the line of duty; and
4. Oklahoma emergency medical technicians who have given their lives in the line of duty.

This waiver of resident tuition and nonresident tuition is limited to 5 years.

Hb 1378 – (Effective November 1, 2014) amends **70 O.S. § 1210.199** to require public schools to instruct students in the 'awareness of the purpose of an

automated external defibrillator'. This is to be done 'at least once between ninth grade and graduation from high school'.

Also, students in physical education classes may receive instruction in the Heimlich maneuver.

A student whose parent 'objects in writing', and students at 'virtual charter schools' are exempted from this requirement.

Instructors may include police officers, firefighters, EMT's, teachers, or 'similarly qualified individuals or organizations'.

Title 76 – torts

Hb 3365 (effective November 1, 2014) enacts a new law to be codified at **76 O.S. § 57.2** which creates a rebuttable presumption in product liability cases. A manufacturer or seller is not liable if the manufacturer or seller establishes that the 'formula, labeling, or design for the product complied with or exceeded mandatory safety standards' that were applicable at the time of manufacture and that governed the product risk. Also provides for some exceptions, primarily that the standards used were 'inadequate to protect the public'.

Hb 2325 – (Effective November 1, 2014) amends **76 O.S. § 33**, which limits liability of providers of services or goods on request of state or federal governments in event of an emergency. The provision of 'shelter' is now included on the list of protected activities.

The amendment also clarifies that a 'tornado' is considered a 'catastrophic act of nature'.

Hb 2338 (effective November 1, 2014) enacts a new law to be codified at **76 O.S. § 5.9**. Any 'individual, business, church or school' that renders assistance during a 'natural disaster or catastrophic event' is not to be liable for damages resulting from the assistance unless grossly negligent or engaged in 'willful or wanton misconduct'

SB 2003 (Emergency – effective July 1, 2014) amends several sections in **Title 59** concerning Bail Enforcers.

Amends **§ 1350.2** to put off until February 1, 2015, the date on which a person must be licensed to act as a Bail Enforcer.

Amends **§ 1311.3** to allow a bail bondsman to contract with a Bail Enforcer even after the bondsman's license has expired or been suspended or revoked. This must be done within 90 days and is limited to defendant's who had bond posted by the bondsman before the license expired. Also amends **§ 1350.4** for the same purpose.

Amends **§ 1350.5** to change 'shall be trained on the use of force continuum...' to '...on the use of force...'

Amends **§ 1350.9** to allow use of 'equivalent GED qualifications' instead of being limited to a high-school diploma or GED.

Amends **§ 1350.2** to make it 'unlawful' for an unlicensed person to wear apparel, display a badge or identification card, or mark a vehicle with the words

'bail enforcer', 'bail enforcement' or 'bail enforcement agency' or to use any other words that imply that such person is licensed or authorized to as a Bail Enforcer.

Amends **§ 1350.13** to remove the reference to 'bail recovery agency' as the Act has no provision to license Agencies.

Allows a licensee to mark apparel with the words 'bail enforcement', in addition to 'bail enforcer'. Also amends **§ 1350.16** for the same purpose.

Amends **§ 1350.14** to allow CLEET to withhold from release the physical residence address of a bail enforcer, when responding to public information requests, when the 'applicant or licensee has so requested' and has provided to CLEET an 'alternative address' or 'business address' for dissemination to the public.

Other stuff – unclassifiable

Hb 3164 – (effective November 1, 2014) repeals **Title 15 O.S. § 1021, 1022, 1023, and 1024** The 'Y2K protection Act'

Some of the highlights of the Y2K Act (now repealed, of course)

"Computer date failure" means the inability of the computer system or computer program or software to accurately store, process, provide or receive data from, into and between the years 1999 and 2000, including leap year calculations;

Any action which is brought against a defendant shall:

- 1. Be brought only as an individual action and not as a class action;*
- 2. Be deemed to be based solely and exclusively in contract; and*
- 3. Not afford recovery for punitive damages.*

Conditions shall be as follows:

- 1. The plaintiff has not suffered personal injury, other than emotional harm, as a result of the computer failure;*
- 2. The damages which are the basis of the action are not the result of pollution of the environment.*
- 3. The defendant has made reasonable efforts to protect against damages from a computer date failure;*
- 4. The defendant has conducted reasonable testing; and*
- 5. The defendant has prepared a contingency plan, with alternative methods of carrying out the services.*

Sb 2122 –(Emergency – effective immediately) is what is known as a 'repealer' bill. 68 pages long, this bill repeals several Sections and amends others. Those of interest to peace officers include:

-amends **10A O.S. § 1-6-02** to add 'CASA' records to those juvenile records considered confidential.

-amends **21 O.S. § 1290.14** to allow the SDA instructor to determine 'maximum class size', but 'practice shooting sessions' shall not have more than ten participating students at one time.

-amends **47 O.S. § 11-1116** to allow the county commissioners to approve the use of all-terrain vehicles on roadways within unincorporated areas, but only for use as 'an instrument of husbandry'.

-amends **47 O.S. § 583** to increase the amount of the bond posted by a used motor vehicle dealer from \$15,000 to \$25,000.

Hb 3012 – (Effective November 1, 2014) Amends **74 O.S. § 150.23** to allow correctional officers, probation and parole officers, and internal affairs agents of DOC to retain their badge, upon 'retirement by reason of length of service'.

Sb 1585 – (Effective November 1, 2014) amends several §§ in **Title 72**, changing the name of the 'War Veterans Commission of Oklahoma' to the 'Oklahoma Veterans Commission', and making several housekeeping changes.

Sb 1077 – (Effective November 1, 2014) Amends **5 O.S. § 6** to require that an Attorney Lien claim against real property must be filed with the County Clerk and must be re-filed each five years until foreclosed. Any action to enforce the lien against real property must be commenced within ten years of recordation.

SB 862 (Effective November 1, 2014) makes two changes affecting gold and silver. Amends **68 O.S. § 1357** to remove the requirement that bullion be stored in a 'recognized depository facility' to be eligible for a sales tax exemption.

Also enacts a new law to be codified at **62 O.S. § 4500**. "Gold and silver coins issued by the United States government are legal tender in the State of Oklahoma. No person may compel another person to tender or accept gold or silver coins that are issued by the United States government, except as agreed upon by contract."

Hb 2372 – (Effective November 1, 2014) enacts new laws to be codified at **40 O.S. § 173.2** and **§ 173.3**. An employer may not:

- require an employee or applicant to disclose a user name and password for social media
- require an employee or applicant to access social media in the presence of the employer, except as otherwise provided in the Act.
- take retaliatory action for refusing to disclose
- refuse to hire because of refusal to disclose

An Employer may require disclosure when:

- the social media is part of a computer system supplied or subsidized by the employer
- the social media is used for business purposes
- to ensure compliance with laws and regulations on employee misconduct
- to prevent unauthorized transfer of 'propriety information'.

An employee or applicant may bring a civil action for violation. It must be brought within six months of the alleged violation. Damages are limited to \$500 and this is not considered a public policy tort for employment law. An employer is not liable for **not** accessing or reviewing social media accounts of employees or applicants.

Hb 2938 (Emergency – effective July 1, 2014) enacts a new law not to be codified. The State Board of Education is to promulgate rules that 'qualify teachers who pass the state vocal music certification test' to 'teach piano courses'.

Hb 2319 – (Effective November 1, 2014) repeals **66 O.S. § 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268 and 269.** The effect is that there are no longer any state statutes specific to cabooses.

Here are some 'caboose' statutes we will probably miss:

§ 252 – Cabooses of metal construction shall have wooden or insulated metal floors.

§ 253 – cabooses are to have 'steel wheels'

§ 255 – 'The area of the drinking water and lavatory facilities shall be illuminated. All cabooses constructed after the effective date of this act shall have toilets which are illuminated.'

§ 256 – a caboose must be heated to at least 65 degrees

§ 257 – seat cushions must be at least 3 inches thick

§ 260 – 'Stanchions, grab handles, or bars, shall be installed at entrances and exits and at other locations within convenient reach of employees moving about the caboose while a train is in motion.'

§ 261 - Drinking water facilities shall provide fresh and pure drinking water. When ice is used for water cooling purposes, the containers shall be so arranged that drinking water will not come in contact with ice.

§ 264 – a caboose must have a first aid kit.

§ 268 – 'Toilet facilities in such cabooses will be steam cleaned at least once a month. Each such caboose will display a card to be signed and dated by the supervisor employee in charge of the cleaning operation.'