

CHAPTER 40. OKLAHOMA IDENTITY THEFT PASSPORT PROGRAM

[Authority: 22 O.S., § 19B]

[Source: Codified 6-11-05]

375:40-1-1. Purpose

The rules of this chapter have been adopted for the purpose of complying with the relevant provisions of 75 Oklahoma Statutes Sections 250, et seq. (The Oklahoma Administrative Procedures Act), 22 Oklahoma Statutes, Sections 18(9) and 19a (Expungement of Records - Persons authorized), and 22 Oklahoma Statutes, Section 19b (The Oklahoma Identity Theft Passport Program).

[Source: Added at 22 Ok Reg 411, eff 12-20-04 (emergency); Added at 22 Ok Reg 1497, eff 6-11-05]

375:40-1-2. Definitions

The following words, when used in this Chapter, shall have the following definitions, unless the context clearly dictates otherwise.

"Application" means the State of Oklahoma Identity Theft Passport Request Victim Information Sheet.

"Bureau" means the Oklahoma State Bureau of Investigation.

~~**"Certificate"** means the 8 ½" x 11" State of Oklahoma Identity Theft Passport Certificate issued to identity theft victims.~~

"Consumer Reporting Agency", as defined in Title 15 United States Code, Section 1681 et seq., The Fair Credit Reporting Act, means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

"Eligible" means those victims of identity theft who have been (1) charged with or arrested for a criminal offense or have become the subject of an arrest

warrant for a crime that was committed by the unauthorized individual or (2) those whose identities have been stolen, giving an unauthorized person or persons the potential to use the information to obtain false documents or consumer privileges.

"**Fee**" means a reasonable charge prescribed by the OSBI for processing applications for Identity Theft Passports.

"**Identity Theft Affidavit**" means a document created by the Federal Trade Commission to assist victims in reporting identity theft to one or more of the three national consumer reporting agencies and the fraud departments of their creditors, banks, or utilities/services.

"**Identity Theft Report**" means a report of identity theft (police report) made by the victim to a federal, state, or local law enforcement agency within the State of Oklahoma.

"**Minor Child**" means any person under 18 years of age.

"**Nationally Recognized Credit Card**" means any instrument or device, whether known as a credit card, credit plate, charge plate, or by any other name, issued with or without fee by the issuer for the use of the cardholder in obtaining goods, services, or anything else of value on credit which is accepted by over one thousand merchants in the state. The Oklahoma State Bureau of Investigation shall determine which nationally recognized credit cards will be accepted by the Bureau.

"**Order of Expungement and Sealing of Records**" means a certified court document issued for the purpose of expunging a criminal charge, arrest or outstanding arrest warrant created or issued as the result of identity theft pursuant to 22 Oklahoma Statutes Sections 18(9) and 19a.

"**OSBI**" means the Oklahoma State Bureau of Investigation.

"**Passport**" means the Oklahoma Identity Theft Passport Card issued to identity theft victims.

"**Reasonable Cause**" means the basis on which the OSBI may deny an application for an Identity Theft Passport to include, but not limited to, failure to complete the application form and/or provide any of the required documents outlined in OAC Rule 375: 40-1-5 Submission of Application and Required Documentation.

"**Victim**" means a person whose name or other identification has been appropriated or used by another without the person's consent or authorization.

[Source: Added at 22 Ok Reg 411, eff 12-20-04 (emergency); Added at 22 Ok Reg 1497, eff 6-11-05]

375:40-1-3. Request for application

The State of Oklahoma Identity Theft Passport Request Victim Information Sheet and instructions may be requested from the OSBI's Identity Theft Passport Unit by telephone at #405/848-6724 (Oklahoma City metropolitan area) or #1/800/207-6724 (outside the metropolitan area) between 8:30 a.m. and 4:30 p.m., Monday through Friday excluding holidays. The form and instructions are available for download on the Bureau's Internet web site at www.osbi.ok.gov. The FTC Identity Theft Affidavit is available on the OSBI web site or at <http://www.consumer.gov/idtheft/>.

[Source: Added at 22 Ok Reg 411, eff 12-20-04 (emergency); Added at 22 Ok Reg 1497, eff 6-11-05; Amended at 30 Ok Reg 1806, eff 8-1-13]

375:40-1-4. Eligibility

(a) Pursuant to 22 Oklahoma Statutes Section 19b, Subsection B(1), a person shall be eligible for an Oklahoma Identity Theft Passport if the person has obtained:

(1) An Order for Expungement and Sealing of Records pursuant to Sections 18 and 19 of Title 22 of the Oklahoma Statutes on grounds that the person has been charged or arrested or is the subject of an arrest warrant for a crime that was committed by another person who has appropriated or used the person's name or other identification without the person's consent or authorization or

(2) An Order for Expungement and Sealing of Records pursuant to 22 Oklahoma Statutes, Section 19a from a court that dismissed a charge against the person on such grounds.

(b) Pursuant to 22 Oklahoma Statutes Section 19b, Subsection B(2) a person shall be eligible for an Oklahoma Identity Theft Passport if the person has filed an Identity Theft Report with a federal, state, or local law enforcement agency and an Identity Theft Affidavit with supporting documentation to one or more consumer reporting agencies.

[Source: Added at 22 Ok Reg 411, eff 12-20-04 (emergency); Added at 22 Ok Reg 1497, eff 6-11-05]

375:40-1-5. Submission of application and required documents

(a) Each identity theft passport applicant shall provide the following documents:

(1) Complete a State of Oklahoma Identity Theft Passport Request Victim Information Sheet;

(2) Provide his or her current Oklahoma driver's license or current Oklahoma ID card (in-person requests) or a legible photocopy of either document (mail requests). If the victim is a minor child, a parent or legal guardian must provide his or her Oklahoma driver's license or ID card, along with a notarized statement in which the parent or guardian attests he or she has legal responsibility for the victim as a minor child;

(3) Provide two current, passport size, color photographs for the Oklahoma Identity Theft Passport Card;

(4) Provide a certified copy of an Order for Expungement and Sealing of Records issued pursuant to 22 O. S. Section 18(9) or 22 O. S. Section 19a; or copies of all of the following documents

(A) An FTC Identity Theft Affidavit

(B) An Identity Theft Report (police report) made to a federal, state or local law enforcement agency within the State of Oklahoma

(C) A completed United States Postal Service Certified Mail/Domestic Return Receipt (PS Form 3811) as proof that an Identity Theft Affidavit and Identity Theft Report have been sent to and received by one of the three major national consumer reporting agencies identified as:

(i) Equifax Credit Information Services, Inc.,
<http://www.equifax.com>

(ii) Experian Information Solutions, Inc.,
<http://www.experian.com>

(iii) TransUnion, <http://www.transunion.com>

(b) Each identity theft passport applicant shall mail the application packet to the Oklahoma State Bureau of Investigation, Identity Theft Passport Unit, 6600 North Harvey, Oklahoma City, OK 73116, or deliver all such items to Suite 140 at the same address.

[Source: Added at 22 Ok Reg 411, eff 12-20-04 (emergency); Added at 22 Ok Reg 1497, eff 6-11-05]

375:40-1-6. Review of application

(a) The Identity Theft Passport Unit will review all applications and documentation for completeness and adherence to the law. Failure to provide all of the information requested on the application form or to include any of the required documents will be considered reasonable cause to deny issuance of an Identity Theft Passport.

(b) All Orders issued pursuant to 22 Oklahoma Statutes, Sections 18(9) and 19a will be forwarded to the Bureau's Chief Legal Counsel for review. Valid Orders will be processed as prescribed in 22 Oklahoma Statutes, Section 19. Invalid Orders will be considered reasonable cause to deny issuance of an Identity Theft Passport.

(c) When an Order of Expungement and Sealing of Records is received that pertains to an outstanding arrest warrant only, the Bureau will not have a record or document to expunge and the applicant will be notified of that fact by letter.

[Source: Added at 22 Ok Reg 411, eff 12-20-04 (emergency); Added at 22 Ok Reg 1497, eff 6-11-05]

375:40-1-7. Identity theft database

~~An Identity Theft Passport record will be created for each request received and issuances made. Information in the database is sealed and not subject to the Open Records Act, 51 Oklahoma Statutes, Section 24A.1 et seq., pursuant to 22 Oklahoma Statute, Section 18(9) and 22 Oklahoma Statute, Section 19b, Subsection F. However, the Bureau may provide information from the database to a law enforcement agency or officer upon receipt of a written request on a form provided by the OSBI.~~

[Source: Added at 22 Ok Reg 411, eff 12-20-04 (emergency); Added at 22 Ok Reg 1497, eff 6-11-05]

375:40-1-8. Issuance or denial of Passport

(a) Unless a review of the application reveals reasonable cause not to issue a passport, the Identity Theft Passport Unit will create an Identity Theft Passport Card stating whether the passport was issued on the basis of an Order for Expungement or an Identity Theft Report and Affidavit. The card will contain the victim's name, address, birthdate, sex, race, height, weight, hair and eye color, the passport number and date issued.

~~(b) Identity Theft Passport and Certificate shall be returned by certified mail with return receipt requested to ensure delivery to the applicant only. Notification of a denied application shall be made by letter and include the reason(s) for the denial.~~

[Source: Added at 22 Ok Reg 411, eff 12-20-04 (emergency); Added at 22 Ok Reg 1497, eff 6-11-05]

375:40-1-9. Notification

(a) Upon issuing an Identity Theft Passport to an identity theft victim, the OSBI will flag any criminal history or other records in its possession that are associated with the passport and are accessible to law enforcement authorities. The OSBI will provide the Department of Public Safety with the passport information so records accessible to law enforcement through the state telecommunications network may be flagged as well.

(b) The Oklahoma Identity Theft Passport Program was enacted to protect the victims of identity theft. To further this effort, the OSBI will provide information about the program to all law enforcement agencies within the state. Means of notification and education include, but are not limited to, letters, articles in agency publications, and web site postings.

[Source: Added at 22 Ok Reg 411, eff 12-20-04 (emergency); Added at 22 Ok Reg 1497, eff 6-11-05]

375:40-1-10. Passport restrictions

An Identity Theft Passport shall be used only for law enforcement purposes, including determining the accuracy criminal background checks by a law enforcement agency and similar public safety purposes. All other uses are prohibited. Financial institutions and other private entities are advised that presentation of the Oklahoma Identity Theft Passport to private individuals or entities is not authorized.

[Source: Added at 22 Ok Reg 411, eff 12-20-04 (emergency); Added at 22 Ok Reg 1497, eff 6-11-05]

375:40-1-11. Improper usage

Any use or attempted use of an Identity Theft Passport ~~or Certificate~~ not specifically authorized by OAC 375: 40-1-10 (Passport Restrictions) is not authorized and is prohibited.

[Source: Added at 22 Ok Reg 411, eff 12-20-04 (emergency); Added at 22 Ok Reg 1497, eff 6-11-05]