

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 263

By: Smith

AS INTRODUCED

An Act relating to the Administrative Procedures Act; amending 75 O.S. 1991, Section 310, which relates to procedures before agencies; allowing party to individual proceeding to request exclusion of witnesses from proceedings; and providing an effective date.

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

SECTION 1. AMENDATORY 75 O.S. 1991, Section 310, is amended to read as follows:

Section 310. In individual proceedings:

~~(1)~~ 1. Agencies may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent ~~men~~ persons in the conduct of their affairs. They shall give effect to the rules of privilege recognized by law in respect to: self-incrimination; confidential communications between husband and wife during the subsistence of the marriage relation; communication between attorney and client, made in that relation; confessions made to a clergyman or priest in his or her professional capacity in the course of discipline enjoined by the church to which he or she belongs; communications made by a patient to a licensed practitioner of one of the healing arts with reference to any physical or supposed physical disease or of knowledge gained by ~~such~~ a practitioner through a physical examination of a patient made in a professional capacity; records and files of any official or agency of any state or of the United States which, by any statute of ~~such~~ a state or of the United States are made confidential and privileged.

No greater exclusionary effect shall be given any such rule or privilege than would obtain in an action in court. Agencies may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form;

~~(2)~~ 2. Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original;

~~(3)~~ 3. A party may conduct cross-examinations required for a full and true disclosure of the facts;

~~(4)~~ 4. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

~~(5)~~ 5. Any party shall at all times have the right to counsel, provided that such counsel must be duly licensed to practice law by the Supreme Court of Oklahoma, and provided further that ~~such~~ counsel shall have the right to appear and act for and on behalf of the party ~~he represents~~ represented.

6. A party may request the exclusion of witnesses to the extent and for the purposes stated in Section 2615 of Title 12 of the Oklahoma Statutes. Exclusion of a witness shall not be a violation of the Oklahoma Open Meeting Act.

SECTION 2. This act shall become effective November 1, 1999.

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