

ENGROSSED HOUSE
BILL NO. 1680

By: Blackburn of the House
and
Monson of the Senate

An Act relating to officers; amending 51 O.S. 2001, Sections 24A.3, as amended by Section 2, Chapter 478, O.S.L. 2002 and 24A.5 (51 O.S. Supp. 2002 Section 24A.3), which relate to the Open Records Act; defining term; providing exemption from Open Records Act for private financial account information; and providing an effective date.

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

SECTION 1. AMENDATORY 51 O.S. 2001, Section 24A.3, as amended by Section 2, Chapter 478, O.S.L. 2002 (51 O.S. Supp. 2002, Section 24A.3), is amended to read as follows:

Section 24A.3 Definitions. As used in this act:

1. "'Record" means all documents, including, but not limited to, any book, paper, photograph, microfilm, data files created by or used with computer software, computer tape, disk, and record, sound recording, film recording, video record or other material regardless of physical form or characteristic, created by, received by, under the authority of, or coming into the custody, control or possession of public officials, public bodies, or their representatives in connection with the transaction of public business, the expenditure of public funds or the administering of public property. "Record" does not mean computer software, nongovernment personal effects or, unless public disclosure is required by other laws or regulations, vehicle movement records of the Oklahoma Turnpike Authority obtained in connection with the Authority's electronic toll collection system, personal financial information, credit reports or other financial data obtained by or submitted to a public body for the

purpose of evaluating credit worthiness, obtaining a license, permit, or for the purpose of becoming qualified to contract with a public body. "Record" does not mean any personal information provided by a guest at any facility owned or operated by the Oklahoma Tourism and Recreation Department to obtain any service at such facility or by a purchaser of a product sold by or through the Oklahoma Tourism and Recreation Department. "Record" does not mean a Department of Defense Form 214 (DD Form 214) filed with a county clerk, including any DD Form 214 filed before the effective date of this act;

2. "Public body" shall include, but not be limited to, any office, department, board, bureau, commission, agency, trusteeship, authority, council, committee, trust or any entity created by a trust, county, city, village, town, township, district, school district, fair board, court, executive office, advisory group, task force, study group, or any subdivision thereof, supported in whole or in part by public funds or entrusted with the expenditure of public funds or administering or operating public property, and all committees, or subcommittees thereof. Except for the records required by Section 24A.4 of this title, "public body" does not mean judges, justices, the Council on Judicial Complaints, the Legislature, or legislators;

3. "Public office" means the physical location where public bodies conduct business or keep records;

4. "Public official" means any official or employee of any public body as defined herein; ~~and~~

5. "Law enforcement agency" means any public body charged with enforcing state or local criminal laws and initiating criminal prosecutions, including, but not limited to, police departments, county sheriffs, the Department of Public Safety, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic

Beverage Laws Enforcement Commission, and the Oklahoma State Bureau of Investigation; and

6. "Private financial account information" means that portion of any record which discloses or reveals either:

- a. the debit card account number or credit card account number of any individual or entity other than a public body, or
- b. the loan account or deposit account number at any insured depository institution, or brokerage account number, or other investment account or transactional account number of any individual or entity other than a public body.

Without limitation, private financial account information includes a MICR-encoded account number appearing on the lower portion of any check written by any individual or entity other than a public body, including any check stored or reproduced electronically or by microphotographic process.

SECTION 2. AMENDATORY 51 O.S. 2001, Section 24A.5, is amended to read as follows:

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

1. The Oklahoma Open Records Act, Section 24A.1 et seq. of this title, does not apply to records specifically required by law to be kept confidential including:

- a. records protected by a state evidentiary privilege such as the attorney-client privilege, the work product immunity from discovery and the identity of informer privileges, or
- b. records of what transpired during meetings of a public body lawfully closed to the public such as executive sessions authorized under the Oklahoma Open Meeting

Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes, or

- c. personal information within driver records as defined by the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725, or
- d. information in the files of the Board of Medicolegal Investigations obtained pursuant to Sections 940 and 941 of Title 63 of the Oklahoma Statutes that may be hearsay, preliminary unsubstantiated investigation-related findings, or confidential medical information, or
- e. private financial account information, as defined in paragraph 6 of Section 1 of this act; provided, this subparagraph shall not prohibit disclosure by a public body of records that include private financial account information if such disclosure is relevant and reasonably necessary in connection with any law enforcement investigation, governmental administrative action, or judicial procedure.

2. Any reasonably segregable portion of a record containing exempt material shall be provided after deletion of the exempt portions, provided however, the Oklahoma Department of Public Safety shall not be required to assemble for the requesting person specific information requested from the Oklahoma Department of Public Safety's Driver License file relating to persons whose names and dates of birth or whose driver license numbers are not furnished by the requesting person. The Oklahoma State Bureau of Investigation shall not be required to assemble for the requesting person any criminal history records relating to persons whose names and dates of birth are not furnished by the requesting person.

3. Any request for a record which contains individual records of persons and the cost of copying, reproducing or certifying such

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

- a. is solely for commercial purpose, or
- b. would clearly cause excessive disruption of the public body's essential functions,

then the public body may charge a reasonable fee to recover the direct cost of document search; however, publication in a newspaper or broadcast by news media for news purposes shall not constitute a resale or use of data for trade or commercial purpose and charges for providing copies of electronic data to the news media for a news purpose shall not exceed the direct cost of making the copy.

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

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

The fees shall not be used for the purpose of discouraging requests for information or as obstacles to disclosure of requested information.

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

5. A public body must provide prompt, reasonable access to its records but may establish reasonable procedures which protect the integrity and organization of its records and to prevent excessive disruptions of its essential functions.

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

SECTION 3. This act shall become effective November 1, 2003.

Passed the House of Representatives the 11th day of March, 2003.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2003.

Presiding Officer of the Senate