

THE HOUSE OF REPRESENTATIVES
Wednesday, February 24, 2010

Committee Substitute for
House Bill No. 3155

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 3155 - By: OSBORN of the House and JUSTICE of the Senate.

An Act relating to officers; amending 51 O.S. 2001, Section 24A.5, as last amended by Section 34, Chapter 16, O.S.L. 2006 (51 O.S. Supp. 2009, Section 24A.5), which relates to exemptions from applicability of the Oklahoma Open Records Act; providing exemption for information contained in the files of the Chief Medical Examiner; providing exemption for information contained in certain autopsy report; permitting district attorney to disclose information in certain autopsy report; requiring release of prepared report by Office of the Chief Medical Examiner containing certain information; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 51 O.S. 2001, Section 24A.5, as last amended by
2 Section 34, Chapter 16, O.S.L. 2006 (51 O.S. Supp. 2009, Section 24A.5), is amended to
3 read as follows:

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

7 1. The Oklahoma Open Records Act, Sections 24A.1 through 24A.28 of this title,
8 does not apply to records specifically required by law to be kept confidential including:

- 1 a. records protected by a state evidentiary privilege such as the attorney-
2 client privilege, the work product immunity from discovery and the
3 identity of informer privileges,
- 4 b. records of what transpired during meetings of a public body lawfully
5 closed to the public such as executive sessions authorized under the
6 Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the
7 Oklahoma Statutes,
- 8 c. personal information within driver records as defined by the Driver's
9 Privacy Protection Act, 18 United States Code, Sections 2721 through
10 2725, or
- 11 d. information in the files of the ~~Board of Medicolegal Investigations~~
12 Office of the Chief Medical Examiner obtained pursuant to Sections
13 940 and 941 of Title 63 of the Oklahoma Statutes that may be hearsay,
14 preliminary unsubstantiated investigation-related findings, ~~or~~
15 confidential medical information, or information contained in an
16 autopsy report providing the "manner of death" as homicide, unknown
17 or pending until discoverable under law; provided, the district attorney
18 of the jurisdiction in which the homicide occurred may disclose any
19 information contained in an autopsy report providing the "manner of
20 death" as homicide, unknown or pending;

21 2. Any reasonably segregable portion of a record containing exempt material shall
22 be provided after deletion of the exempt portions; provided however, the Department of

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 Public Safety shall not be required to assemble for the requesting person specific
2 information, in any format, from driving records relating to any person whose name and
3 date of birth or whose driver license number is not furnished by the requesting person.
4 The Oklahoma State Bureau of Investigation shall not be required to assemble for the
5 requesting person any criminal history records relating to persons whose names, dates of
6 birth, and other identifying information required by the Oklahoma State Bureau of
7 Investigation pursuant to administrative rule are not furnished by the requesting
8 person;

9 3. Any For autopsy reports providing the "manner of death" as homicide, unknown
10 or pending, the Office of the Chief Medical Examiner shall release a prepared report that
11 includes the following information to the extent such information is available: autopsy
12 number, case number, laboratory analysis number, manner of death, full name, age, date
13 of birth, race, sex, and home address of decedent, name and title of the individual
14 notifying the Office of the Chief Medical Examiner, date and time of such notification,
15 including the city, county, type of premises, and the date and time of viewing, and the
16 date report was filed;

17 4. For any request for a record which contains individual records of persons, ~~and~~
18 when the cost of copying, reproducing or certifying each individual record is otherwise
19 prescribed by state law, the cost may be assessed for each individual record, or portion
20 thereof requested as prescribed by state law. Otherwise, a public body may charge a fee
21 only for recovery of the reasonable, direct costs of record copying, or mechanical
22 reproduction. Notwithstanding any state or local provision to the contrary, in no

1 instance shall the record copying fee exceed twenty-five cents (\$0.25) per page for records
2 having the dimensions of eight and one-half (8 1/2) by fourteen (14) inches or smaller, or
3 a maximum of One Dollar (\$1.00) per copied page for a certified copy. However, if the
4 request:

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

8 then the public body may charge a reasonable fee to recover the direct cost of record
9 search and copying; however, publication in a newspaper or broadcast by news media for
10 news purposes shall not constitute a resale or use of a record for trade or commercial
11 purpose and charges for providing copies of electronic data to the news media for a news
12 purpose shall not exceed the direct cost of making the copy. The fee charged by the
13 Department of Public Safety for a copy in a computerized format of a record of the
14 Department shall not exceed the direct cost of making the copy unless the fee for the
15 record is otherwise set by law.

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

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

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

3 ~~4.~~ 5. The land description tract index of all recorded instruments concerning real
4 property required to be kept by the county clerk of any county shall be available for
5 inspection or copying in accordance with the provisions of the Oklahoma Open Records
6 Act; provided, however, the index shall not be copied or mechanically reproduced for the
7 purpose of sale of the information;

8 ~~5.~~ 6. A public body must provide prompt, reasonable access to its records but may
9 establish reasonable procedures which protect the integrity and organization of its
10 records and to prevent excessive disruptions of its essential functions; and

11 ~~6.~~ 7. A public body shall designate certain persons who are authorized to release
12 records of the public body for inspection, copying, or mechanical reproduction. At least
13 one person shall be available at all times to release records during the regular business
14 hours of the public body.

15 SECTION 2. It being immediately necessary for the preservation of the public
16 peace, health and safety, an emergency is hereby declared to exist, by reason whereof
17 this act shall take effect and be in full force from and after its passage and approval.

18 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02-23-10 - DO PASS,
19 As Amended and Coauthored.