

EHB 3155

1 THE STATE SENATE
2 Tuesday, March 30, 2010

3 ENGROSSED

4 House Bill No. 3155

5 As Amended

6 ENGROSSED HOUSE BILL NO. 3155 - By: Osborn of the House and Justice
7 of the Senate.

8 [officers - exemptions from applicability - Oklahoma Open
9 Records Act - Chief Medical Examiner - autopsy report -
10 emergency]

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

12 SECTION 1. AMENDATORY 51 O.S. 2001, Section 24A.5, as
13 last amended by Section 34, Chapter 16, O.S.L. 2006 (51 O.S. Supp.
14 2009, Section 24A.5), is amended to read as follows:

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

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

- 21 a. records protected by a state evidentiary privilege
- 22 such as the attorney-client privilege, the work
- 23 product immunity from discovery and the identity of
- 24 informer privileges,

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

22 2. Any reasonably segregable portion of a record containing
23 exempt material shall be provided after deletion of the exempt

1 portions; provided however, the Department of Public Safety shall
2 not be required to assemble for the requesting person specific
3 information, in any format, from driving records relating to any
4 person whose name and date of birth or whose driver license number
5 is not furnished by the requesting person.

6 The Oklahoma State Bureau of Investigation shall not be required to
7 assemble for the requesting person any criminal history records
8 relating to persons whose names, dates of birth, and other
9 identifying information required by the Oklahoma State Bureau of
10 Investigation pursuant to administrative rule are not furnished by
11 the requesting person;

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

22 4. For any request for a record which contains individual
23 records of persons, ~~and~~ when the cost of copying, reproducing or

1 certifying each individual record is otherwise prescribed by state
2 law, the cost may be assessed for each individual record, or portion
3 thereof requested as prescribed by state law. Otherwise, a public
4 body may charge a fee only for recovery of the reasonable, direct
5 costs of record copying, or mechanical reproduction.

6 Notwithstanding any state or local provision to the contrary, in no
7 instance shall the record copying fee exceed twenty-five cents
8 (\$.25) per page for records having the dimensions of eight and one-
9 half (8 1/2) by fourteen (14) inches or smaller, or a maximum of One
10 Dollar (\$1.00) per copied page for a certified copy. However, if
11 the request:

- 12 a. is solely for commercial purpose, or
 - 13 b. would clearly cause excessive disruption of the
14 essential functions of the public body,
- 15 then the public body may charge a reasonable fee to recover the
16 direct cost of record search and copying; however, publication in a
17 newspaper or broadcast by news media for news purposes shall not
18 constitute a resale or use of a record for trade or commercial
19 purpose and charges for providing copies of electronic data to the
20 news media for a news purpose shall not exceed the direct cost of
21 making the copy. The fee charged by the Department of Public Safety
22 for a copy in a computerized format of a record of the Department

1 shall not exceed the direct cost of making the copy unless the fee
2 for the record is otherwise set by law.

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

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

12 The fees shall not be used for the purpose of discouraging
13 requests for information or as obstacles to disclosure of requested
14 information-;

15 ~~4-~~ 5. The land description tract index of all recorded
16 instruments concerning real property required to be kept by the
17 county clerk of any county shall be available for inspection or
18 copying in accordance with the provisions of the Oklahoma Open
19 Records Act; provided, however, the index shall not be copied or
20 mechanically reproduced for the purpose of sale of the information-;

21 ~~5-~~ 6. A public body must provide prompt, reasonable access to
22 its records but may establish reasonable procedures which protect

1 the integrity and organization of its records and to prevent
2 excessive disruptions of its essential functions~~;~~; and

3 ~~6.~~ 7. A public body shall designate certain persons who are
4 authorized to release records of the public body for inspection,
5 copying, or mechanical reproduction. At least one person shall be
6 available at all times to release records during the regular
7 business hours of the public body.

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

12 COMMITTEE REPORT BY: COMMITTEE ON HEALTH & HUMAN SERVICES, dated 3-
13 25-10 - DO PASS, As Amended.