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February 20, 2017

By: Thompson

An Act relating to the Oklahoma Open Records Act; amending 51 O.S. 2011, Section 24A.5, as last amended by Section 1, Chapter 192, O.S.L. 2016 (51 O.S. Supp. 2016, Section 24A.5), which relates to inspection and reproduction of records; specifying requirement for permissible delay for certain requests; and providing an effective date.

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

SECTION 1. AMENDATORY 51 O.S. 2011, Section 24A.5, as last amended by Section 1, Chapter 192, O.S.L. 2016 (51 O.S. Supp. 2016, 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, or mechanical reproduction during regular business hours; provided:

1. The Oklahoma Open Records Act, Sections 24A.1 through 24A.30 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,

- 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,
- c. personal information within driver records as defined by the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725,
- 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. any test forms, question banks and answer keys developed for state licensure examinations, but specifically excluding test preparation materials or study guides;

2. All Social Security numbers included in a record may be confidential regardless of the person's status as a public employee or private individual and may be redacted or deleted prior to release of the record by the public body;

3. Any reasonably segregable portion of a record containing exempt material shall be provided after deletion of the exempt portions; provided however, the Department of Public Safety shall

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

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

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

23 a. is solely for commercial purpose, or
24

1 b. would clearly cause excessive disruption of the
2 essential functions of the public body,
3 then the public body may charge a reasonable fee to recover the
4 direct cost of record search and copying; however, publication in a
5 newspaper or broadcast by news media for news purposes shall not
6 constitute a resale or use of a record for trade or commercial
7 purpose and charges for providing copies of electronic data to the
8 news media for a news purpose shall not exceed the direct cost of
9 making the copy. The fee charged by the Department of Public Safety
10 for a copy in a computerized format of a record of the Department
11 shall not exceed the direct cost of making the copy unless the fee
12 for the record is otherwise set by law.

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

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

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

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

7 6. A public body must provide prompt, reasonable access to its
8 records but may establish reasonable procedures which protect the
9 integrity and organization of its records and to prevent excessive
10 disruptions of its essential functions. A delay in providing access
11 to records shall be limited solely to the time required for
12 preparing the requested documents and the avoidance of excessive
13 disruptions of the public body's essential functions. In no event
14 may production of a current request for records be unreasonably
15 delayed until after completion of a prior records request that will
16 take substantially longer than the current request. Any public body
17 which makes the requested records available on the Internet shall
18 meet the obligation of providing prompt, reasonable access to its
19 records as required by this paragraph; and

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

SECTION 2. This act shall become effective November 1, 2017.

COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT
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