

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 58th Legislature (2022)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3475

By: Grego of the House

and

Allen of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to the Oklahoma Open Records Act;
12 amending 51 O.S. 2021, Section 24A.5, which relates
13 to procedures for public records; modifying
14 provisions related to certain records requests;
15 authorizing denial of requests under certain
16 conditions; providing exemptions from Oklahoma Open
17 Meeting Act and Oklahoma Open Records Act for certain
18 entities; authorizing executive sessions; providing
19 exception related to budget information; defining
20 term; providing for codification; and providing an
21 effective date.

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

23 SECTION 1. AMENDATORY 51 O.S. 2021, Section 24A.5, is
24 amended to read as follows:

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

1 1. The Oklahoma Open Records Act, Sections 24A.1 through 24A.30
2 of this title, does not apply to records specifically required by
3 law to be kept confidential including:

4 a. records protected by a state evidentiary privilege
5 such as the attorney-client privilege, the work
6 product immunity from discovery and the identity of
7 informer privileges,

8 b. records of what transpired during meetings of a public
9 body lawfully closed to the public such as executive
10 sessions authorized under the Oklahoma Open Meeting
11 Act,

12 c. personal information within driver records as defined
13 by the Driver's Privacy Protection Act, 18 United
14 States Code, Sections 2721 through 2725,

15 d. information in the files of the Board of Medicolegal
16 Investigations obtained pursuant to Sections 940 and
17 941 of Title 63 of the Oklahoma Statutes that may be
18 hearsay, preliminary unsubstantiated investigation-
19 related findings, or confidential medical information,
20 or

21 e. any test forms, question banks and answer keys
22 developed for state licensure examinations, but
23 specifically excluding test preparation materials or
24 study guides;

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

5 3. Any reasonably segregable portion of a record containing
6 exempt material shall be provided after deletion of the exempt
7 portions; provided however, the Department of Public Safety shall
8 not be required to assemble for the requesting person specific
9 information, in any format, from driving records relating to any
10 person whose name and date of birth or whose driver license number
11 is not furnished by the requesting person.

12 The Oklahoma State Bureau of Investigation shall not be required
13 to assemble for the requesting person any criminal history records
14 relating to persons whose names, dates of birth, and other
15 identifying information required by the Oklahoma State Bureau of
16 Investigation pursuant to administrative rule are not furnished by
17 the requesting person;

18 4. Any request for a record which contains individual records
19 of persons, and the cost of copying, reproducing or certifying each
20 individual record is otherwise prescribed by state law, the cost may
21 be assessed for each individual record, or portion thereof requested
22 as prescribed by state law. Otherwise, a public body may charge a
23 fee only for recovery of the reasonable, direct costs of record
24 copying, or mechanical reproduction. Notwithstanding any state or

1 local provision to the contrary, in no instance shall the record
2 copying fee exceed twenty-five cents (\$0.25) per page for records
3 having the dimensions of eight and one-half (8 1/2) by fourteen (14)
4 inches or smaller, or a maximum of One Dollar (\$1.00) per copied
5 page for a certified copy. However, if the request:

6 a. is solely for commercial purpose, or

7 b. would clearly cause excessive disruption of the
8 essential functions of the public body,

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

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

22 In no case shall a search fee be charged when the release of
23 records is in the public interest, including, but not limited to,
24 release to the news media, scholars, authors and taxpayers seeking

1 to determine whether those entrusted with the affairs of the
2 government are honestly, faithfully, and competently performing
3 their duties as public servants.

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

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

13 6. A public body must provide prompt, reasonable access to its
14 records but may establish reasonable procedures which protect the
15 integrity and organization of its records and to prevent excessive
16 disruptions of its essential functions. A request may be denied if
17 a request places an excessive disruption in producing public records
18 on the public body or if the custodian has reason to believe that
19 repeated requests are intended to disrupt other essential functions
20 of the public body. A delay in providing access to records shall be
21 limited solely to the time required for preparing the requested
22 documents and the avoidance of excessive disruptions of the public
23 body's essential functions. In no event may production of a current
24 request for records be unreasonably delayed until after completion

1 of a prior records request that will take substantially longer than
2 the current request. Any public body which makes the requested
3 records available on the Internet shall meet the obligation of
4 providing prompt, reasonable access to its records as required by
5 this paragraph; and

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

11 SECTION 2. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 3500.10 of Title 63, unless
13 there is created a duplication in numbering, reads as follows:

14 In the event a public trust hospital enters into a joint venture
15 or acquires an interest in a not-for-profit entity to effectuate the
16 administration of the mission of the public trust, that entity shall
17 not be subject to the Oklahoma Open Meeting Act and the Oklahoma
18 Open Records Act. Any information submitted to or compiled by the
19 public trust with respect to marketing plans, financial statements,
20 trade secrets, research concepts, methods or products or any other
21 proprietary information submitted to or compiled by the trust,
22 persons, firms, associations, partnerships, agencies, corporations,
23 institutions of higher education, nonprofit research institutions,
24 or other entities shall be confidential, except to the extent that

1 the person or entity which provided such information or which is the
2 subject of such information consents to disclosure. Executive
3 sessions may be held to discuss such materials if deemed necessary
4 by the trust. The provisions of this section shall not apply to
5 budgetary information related to appropriations or the
6 appropriations process. For purposes of this section "public trust
7 hospital" is defined as any hospital created pursuant to Section
8 176.1 of Title 60 of the Oklahoma Statutes or Section 790.1 of Title
9 19 of the Oklahoma Statutes.

10 SECTION 3. This act shall become effective November 1, 2022.

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12 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated
13 03/02/2022 - DO PASS, As Amended and Coauthored.
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