

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

SENATE BILL 327

By: Daniels

AS INTRODUCED

An Act relating to the Oklahoma Discovery Code; amending 12 O.S. 2011, Section 3234, as last amended by Section 2, Chapter 313, O.S.L. 2018 (12 O.S. Supp. 2020, Section 3234), which relates to production of documents; imposing limitation upon requests to produce certain documents or other items; establishing procedures for additional requests for production; and providing an effective date.

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

SECTION 1. AMENDATORY 12 O.S. 2011, Section 3234, as last amended by Section 2, Chapter 313, O.S.L. 2018 (12 O.S. Supp. 2020, Section 3234), is amended to read as follows:

Section 3234. A. IN GENERAL. A party may serve on any other party a request within the scope of Section 3226 of this title:

1. To produce and permit the requesting party or its representative to inspect, copy, test or sample the following items in the possession, custody or control of the responding party:

a. any designated documents or electronically stored information - including writings, drawings, graphs, charts, photographs, sound recordings, images and

1 other data or data compilations - stored in any medium
2 from which information can be obtained either directly
3 or, if necessary, after translation by the responding
4 party into a reasonably usable form, or

5 b. any designated tangible things; or

6 2. To permit entry onto designated land or other property
7 possessed or controlled by the responding party so that the
8 requesting party may inspect, measure, survey, photograph, test or
9 sample the property or any designated object or operation on it.

10 B. PROCEDURE. 1. The request:

11 a. shall describe with reasonable particularity each item
12 or category of items to be inspected,

13 b. shall specify a reasonable time, place and manner for
14 the inspection and for performing the related acts,
15 and

16 c. may specify the form or forms in which electronically
17 stored information is to be produced.

18 2. The number of requests to produce or permit inspection or
19 copying shall not exceed thirty in number. If counsel for a party
20 believes that more than thirty requests to produce or permit
21 inspection or copying are necessary, counsel shall consult with
22 opposing counsel promptly and attempt to reach a written stipulation
23 as to a reasonable number of additional requests. Counsel are
24 expected to comply with this requirement in good faith. In the

1 event a written stipulation cannot be agreed upon, the party seeking
2 to submit such additional requests for production or inspection
3 shall file a motion with the court:

- 4 a. showing that counsel have conferred in good faith but
5 sincere attempts to resolve the issue have been
6 unavailing,
7 b. showing reasons establishing good cause for their use,
8 and
9 c. setting forth the proposed additional requests for
10 production or inspection.

11 3. a. The request may be served, without leave of court,
12 upon any party after the filing of a petition. The
13 party to whom the request is directed shall respond in
14 writing within thirty (30) days after being served.
15 The thirty-day response period shall not commence
16 until an answer to the petition is filed. However,
17 upon leave of court or otherwise agreed to in writing
18 by the parties subject to Section 3229 of this title,
19 the response to the request may be required prior to
20 the filing of an answer to the petition.

- 21 b. For each item or category, the response shall either
22 state that inspection and related activities will be
23 permitted as requested or state with specificity the
24 grounds for objecting to the request, including the

1 reasons. The responding party may state that it will
2 produce copies of documents or of electronically
3 stored information instead of permitting inspection.
4 The production shall be completed no later than the
5 time for inspection specified in the request, or
6 another reasonable time specified in the response.

7 c. An objection shall state whether any responsive
8 materials are being withheld on the basis of that
9 objection. An objection to part of a request shall
10 specify the part and permit inspection of the rest.

11 d. The response may state an objection to a requested
12 form for producing electronically stored information.
13 If the responding party objects to a requested form,
14 or if no form was specified in the request, the party
15 shall state the form or forms it intends to use.

16 e. Unless otherwise stipulated or ordered by the court,
17 these procedures apply to producing documents or
18 electronically stored information:

19 (1) a party shall produce documents as they are kept
20 in the usual course of business or shall organize
21 and label them to correspond to the categories in
22 the request,

23 (2) if a request does not specify a form for
24 producing electronically stored information, a
25

1 party shall produce it in a form or forms in
2 which it is ordinarily maintained or in a
3 reasonably usable form or forms, and

4 (3) a party need not produce the same electronically
5 stored information in more than one form.

6 C. NONPARTIES. A nonparty may be compelled to produce
7 documents and tangible things or to permit an inspection as provided
8 in Section 2004.1 of this title.

9 SECTION 2. This act shall become effective November 1, 2021.

10
11 58-1-569 TEK 1/8/2021 4:49:26 PM
12
13
14
15
16
17
18
19
20
21
22
23
24