

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

SENATE BILL 819

By: Bullard

AS INTRODUCED

An Act relating to controlled dangerous substances; amending 25 O.S. 2011, Section 307, as last amended by Section 57, Chapter 476, O.S.L. 2019 (25 O.S. Supp. 2020, Section 307), which relates to executive sessions; modifying entities that may hold executive sessions; providing for powers and duties; providing for promulgation of rules; providing for adherence to the Oklahoma Open Meeting Act; requiring certain annual report; providing for membership; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 25 O.S. 2011, Section 307, as last amended by Section 57, Chapter 476, O.S.L. 2019 (25 O.S. Supp. 2020, Section 307), is amended to read as follows:

Section 307. A. No public body shall hold executive sessions unless otherwise specifically provided in this section.

B. Executive sessions of public bodies will be permitted only for the purpose of:

1. Discussing the employment, hiring, appointment, promotion, demotion, disciplining or resignation of any individual salaried public officer or employee;

1       2. Discussing negotiations concerning employees and  
2 representatives of employee groups;

3       3. Discussing the purchase or appraisal of real property;

4       4. Confidential communications between a public body and its  
5 attorney concerning a pending investigation, claim, or action if the  
6 public body, with the advice of its attorney, determines that  
7 disclosure will seriously impair the ability of the public body to  
8 process the claim or conduct a pending investigation, litigation, or  
9 proceeding in the public interest;

10       5. Permitting district boards of education to hear evidence and  
11 discuss the expulsion or suspension of a student when requested by  
12 the student involved or the student's parent, attorney or legal  
13 guardian;

14       6. Discussing matters involving a specific handicapped child;

15       7. Discussing any matter where disclosure of information would  
16 violate confidentiality requirements of state or federal law;

17       8. Engaging in deliberations or rendering a final or  
18 intermediate decision in an individual proceeding pursuant to  
19 Article II of the Administrative Procedures Act;

20       9. Discussing matters involving safety and security at state  
21 penal institutions or correctional facilities used to house state  
22 inmates;

23       10. Discussing contract negotiations involving contracts  
24 requiring approval of the Board of Corrections, which shall be  
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1 limited to members of the public body, the attorney for the public  
2 body, and the immediate staff of the public body. No person who may  
3 profit directly or indirectly by a proposed transaction which is  
4 under consideration may be present or participate in the executive  
5 session; or

6 11. Discussing the following:

- 7 a. the investigation of a plan or scheme to commit an act  
8 of terrorism,
- 9 b. assessments of the vulnerability of government  
10 facilities or public improvements to an act of  
11 terrorism,
- 12 c. plans for deterrence or prevention of or protection  
13 from an act of terrorism,
- 14 d. plans for response or remediation after an act of  
15 terrorism,
- 16 e. information technology of the public body but only if  
17 the discussion specifically identifies:
  - 18 (1) design or functional schematics that demonstrate  
19 the relationship or connections between devices  
20 or systems,
  - 21 (2) system configuration information,
  - 22 (3) security monitoring and response equipment  
23 placement and configuration,

- (4) specific location or placement of systems,  
components or devices,
  - (5) system identification numbers, names, or  
connecting circuits,
  - (6) business continuity and disaster planning, or  
response plans, or
  - (7) investigation information directly related to  
security penetrations or denial of services, or
- f. the investigation of an act of terrorism that has  
already been committed.

For the purposes of this subsection, the term "terrorism" means any act encompassed by the definitions set forth in Section 1268.1 of Title 21 of the Oklahoma Statutes.

C. Notwithstanding the provisions of subsection B of this section, the following public bodies may hold executive sessions:

1. The State Banking Board, as provided for under Section 306.1 of Title 6 of the Oklahoma Statutes;

2. The Oklahoma Industrial Finance Authority, as provided for in Section 854 of Title 74 of the Oklahoma Statutes;

3. The Oklahoma Development Finance Authority, as provided for in Section 5062.6 of Title 74 of the Oklahoma Statutes;

4. The Oklahoma Center for the Advancement of Science and Technology, as provided for in Section 5060.7 of Title 74 of the Oklahoma Statutes;

1        5. The Oklahoma Health Research Committee for purposes of  
2 conferring on matters pertaining to research and development of  
3 products, if public disclosure of the matter discussed would  
4 interfere with the development of patents, copyrights, products, or  
5 services;

6        6. The Workers' Compensation Commission for the purposes  
7 provided for in Section 20 of Title 85A of the Oklahoma Statutes;

8        7. A review committee, as provided for in Section 855 of Title  
9 62 of the Oklahoma Statutes;

10       8. The Child Death Review Board for purposes of receiving and  
11 conferring on matters pertaining to materials declared confidential  
12 by law;

13       9. The Domestic Violence Fatality Review Board as provided in  
14 Section 1601 of Title 22 of the Oklahoma Statutes;

15       10. The Opioid Overdose Fatality Review Board, as provided in  
16 Section 2-1001 of Title 63 of the Oklahoma Statutes;

17       11. All nonprofit foundations, boards, bureaus, commissions,  
18 agencies, trusteeships, authorities, councils, committees, public  
19 trusts, task forces or study groups supported in whole or part by  
20 public funds or entrusted with the expenditure of public funds for  
21 purposes of conferring on matters pertaining to economic  
22 development, including the transfer of property, financing, or the  
23 creation of a proposal to entice a business to remain or to locate  
24 within their jurisdiction if public disclosure of the matter

1 discussed would interfere with the development of products or  
2 services or if public disclosure would violate the confidentiality  
3 of the business;

4 12. The Oklahoma Indigent Defense System Board for purposes of  
5 discussing negotiating strategies in connection with making possible  
6 counteroffers to offers to contract to provide legal representation  
7 to indigent criminal defendants and indigent juveniles in cases for  
8 which the System must provide representation pursuant to the  
9 provisions of the Indigent Defense System Act; ~~and~~

10 13. The Quality Investment Committee for purposes of discussing  
11 applications and confidential materials pursuant to the terms of the  
12 Oklahoma Quality Investment Act; and

13 14. The Controlled Dangerous Substances Scheduled Drug Review  
14 Board, as provided in Section 2 of this act.

15 D. Except as otherwise specified in this subsection, an  
16 executive session for the purpose of discussing the purchase or  
17 appraisal of real property shall be limited to members of the public  
18 body, the attorney for the public body and the immediate staff of  
19 the public body. No landowner, real estate salesperson, broker,  
20 developer or any other person who may profit directly or indirectly  
21 by a proposed transaction concerning real property which is under  
22 consideration may be present or participate in the executive  
23 session, unless they are operating under an existing agreement to  
24 represent the public body.

1 E. No public body may go into an executive session unless the  
2 following procedures are strictly complied with:

3 1. The proposed executive session is noted on the agenda as  
4 provided in Section 311 of this title;

5 2. The executive session is authorized by a majority vote of a  
6 quorum of the members present and the vote is a recorded vote; and

7 3. Except for matters considered in executive sessions of the  
8 State Banking Board and the Oklahoma Savings and Loan Board, and  
9 which are required by state or federal law to be confidential, any  
10 vote or action on any item of business considered in an executive  
11 session shall be taken in public meeting with the vote of each  
12 member publicly cast and recorded.

13 F. A willful violation of the provisions of this section shall:

14 1. Subject each member of the public body to criminal sanctions  
15 as provided in Section 314 of this title; and

16 2. Cause the minutes and all other records of the executive  
17 session, including tape recordings, to be immediately made public.

18 SECTION 2. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 2-302.1 of Title 63, unless  
20 there is created a duplication in numbering, reads as follows:

21 A. There is hereby created until July 1, 2026, in accordance  
22 with the Oklahoma Sunset Law, the Controlled Dangerous Substances  
23 Scheduled Drug Review Board within the Oklahoma State Bureau of  
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1 Narcotics and Dangerous Drugs Control. The Board shall have the  
2 power and duty to:

3 1. Collect, analyze and interpret state and local data on data  
4 relating to the registration and control of the manufacture,  
5 distribution, dispensing, prescribing and administering of  
6 controlled dangerous substances in this state;

7 2. Monitor data derived from the prescription monitoring  
8 program (PMP) administered by the Bureau;

9 3. Recommend investigations into prescription practices of  
10 participants;

11 4. Recommend disciplinary action to licensing purposes; and

12 5. Recommend policies, procedures and practices for  
13 consideration to the Director of the Bureau.

14 B. The Board shall maintain all confidential information,  
15 documents and records in possession of the Board as confidential and  
16 not subject to subpoena or discovery in any civil or criminal  
17 proceedings; provided however, information, documents and records  
18 otherwise available from other sources shall not be exempt from  
19 subpoena or discovery through those sources solely because such  
20 information, documents and records were presented to or reviewed by  
21 the Board.

22 C. The Board may report, if recommended by a majority vote of  
23 the Board, to the Governor, the President Pro Tempore of the Senate  
24 and the Speaker of the House of Representatives any information and  
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1 guidance regarding the relevant issued discovered by the Board while  
2 performing its duties.

3 D. The Board shall exercise all incidental powers necessary and  
4 proper for the implementation and administration of the Controlled  
5 Dangerous Substances Scheduled Drug Review Board.

6 E. The review and discussion of individual cases shall be  
7 conducted in executive session. All other business shall be  
8 conducted in accordance with the provisions of the Oklahoma Open  
9 Meeting Act. All discussions of individual cases and any writings  
10 produced by or created for the Board in the course of determining a  
11 remedial measure to be recommended by the Board shall be privileged  
12 and shall not be admissible in evidence in any proceeding. The  
13 Board shall periodically conduct meetings to discuss organization  
14 and business matters and any actions or recommendations aimed at  
15 improvement of the prescribing monitoring system which shall be  
16 subject to the Oklahoma Open Meeting Act. Part of any meeting of  
17 the Board may be specifically designated as a business meeting of  
18 the Board subject to the Oklahoma Open Meeting Act.

19 SECTION 3. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 2-302.2 of Title 63, unless  
21 there is created a duplication in numbering, reads as follows:

22 A. The Controlled Dangerous Substances Scheduled Drug Review  
23 Board shall be composed of five (5) members, or their designees,  
24 appointed by the Governor, as follows:

1 1. Three of the members shall be physicians;

2 2. One of the members shall be a narcotic officer; and

3 3. One of the members shall be a pharmacist.

4 B. The members shall serve a term of four (4) years to run  
5 concurrently with the Governor.

6 C. Every two (2) years the Board shall elect from among its  
7 membership a chair and a vice-chair. The Board shall meet at least  
8 quarterly and may meet more frequently as necessary as determined by  
9 the chair. Members shall serve without compensation but may be  
10 reimbursed for necessary travel out of funds available to the  
11 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,  
12 pursuant to the State Travel Reimbursement Act.

13 D. With funds appropriated or otherwise available for that  
14 purpose, the Oklahoma State Bureau of Narcotics and Dangerous Drugs  
15 Control shall provide administrative assistance and services to the  
16 Controlled Dangerous Substances Scheduled Drug Review Board.

17 SECTION 4. This act shall become effective November 1, 2021.

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