

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

SENATE BILL 970

By: Floyd

AS INTRODUCED

An Act relating to the Oklahoma Open Records Act; amending 51 O.S. 2011, Sections 24A.3, as amended by Section 2, Chapter 266, O.S.L. 2014, 24A.7, as amended by Section 1, Chapter 130, O.S.L. 2014 and 24A.10, as last amended by Section 1, Chapter 197, O.S.L. 2018 (51 O.S. Supp. 2020, Sections 24A.3, 24A.7 and 24A.10), which relate to definitions, personnel records and voluntarily supplied information; modifying definition; allowing confidentiality of personnel records at the sole discretion of public body; requiring confidentiality for certain voluntarily provided information; updating statutory reference; 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.3, as amended by Section 2, Chapter 266, O.S.L. 2014 (51 O.S. Supp. 2020, Section 24A.3), is amended to read as follows:

Section 24A.3. As used in the Oklahoma Open Records Act:

1. "Record" means all documents, including, but not limited to, any book, paper, photograph, microfilm, data files created by or used with computer software, computer tape, disk, record, sound recording, film recording, video record or other material regardless

1 of physical form or characteristic, created by, received by, under
2 the authority of, or coming into the custody, control or possession
3 of public officials, public bodies, or their representatives in
4 connection with the transaction of public business, the expenditure
5 of public funds or the administering of public property. "Record"
6 does not mean:

- 7 a. computer software,
- 8 b. nongovernment personal effects,
- 9 c. unless public disclosure is required by other laws or
10 regulations, vehicle movement records of the Oklahoma
11 Transportation Authority obtained in connection with
12 the Authority's electronic toll collection system,
- 13 d. personal financial information, credit reports or
14 other financial data obtained by or submitted to a
15 public body for the purpose of evaluating credit
16 worthiness, obtaining a license, permit, or for the
17 purpose of becoming qualified to contract with a
18 public body,
- 19 e. any digital audio/video recordings of the toll
20 collection and safeguarding activities of the Oklahoma
21 Transportation Authority,
- 22 f. any personal information provided by a guest at any
23 facility owned or operated by the Oklahoma Tourism and
24 Recreation Department or the Board of Trustees of the

- Quartz Mountain Arts and Conference Center and Nature Park to obtain any service at the facility or by a purchaser of a product sold by or through the Oklahoma Tourism and Recreation Department or the Quartz Mountain Arts and Conference Center and Nature Park,
- g. a Department of Defense Form 214 (DD Form 214) filed with a county clerk, including any DD Form 214 filed before July 1, 2002, ~~or~~
- h. except as provided for in Section 2-110 of Title 47 of the Oklahoma Statutes,
- (1) any record in connection with a Motor Vehicle Report issued by the Department of Public Safety, as prescribed in Section 6-117 of Title 47 of the Oklahoma Statutes, or
- (2) personal information within driver records, as defined by the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725, which are stored and maintained by the Department of Public Safety; or
- i. any information provided to a state agency or entity that will be utilized to provide a license or certificate to an individual including, but not limited to, an applicant's personal address, phone number, other contact information or any other

1 material provided in order to qualify for or receive a
2 license or certificate. Provided, however, the
3 license or certificate shall be a public record.

4 2. "Public body" shall include, but not be limited to, any
5 office, department, board, bureau, commission, agency, trusteeship,
6 authority, council, committee, trust or any entity created by a
7 trust, county, city, village, town, township, district, school
8 district, fair board, court, executive office, advisory group, task
9 force, study group~~7~~ or any subdivision thereof, supported in whole
10 or in part by public funds or entrusted with the expenditure of
11 public funds or administering or operating public property, and all
12 committees, or subcommittees thereof. Except for the records
13 required by Section 24A.4 of this title, "public body" does not mean
14 judges, justices, the Council on Judicial Complaints, the
15 Legislature~~7~~ or legislators;

16 3. "Public office" means the physical location where public
17 bodies conduct business or keep records;

18 4. "Public official" means any official or employee of any
19 public body as defined herein; and

20 5. "Law enforcement agency" means any public body charged with
21 enforcing state or local criminal laws and initiating criminal
22 prosecutions~~7~~ including, but not limited to, police departments,
23 county sheriffs, the Department of Public Safety, the Oklahoma State
24 Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic
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1 Beverage Laws Enforcement Commission, and the Oklahoma State Bureau
2 of Investigation.

3 SECTION 2. AMENDATORY 51 O.S. 2011, Section 24A.7, as
4 amended by Section 1, Chapter 130, O.S.L. 2014 (51 O.S. Supp. 2020,
5 Section 24A.7), is amended to read as follows:

6 Section 24A.7. A. ~~A~~ At the sole discretion of the public body,
7 a public body may keep personnel records confidential:

8 1. Which relate to internal personnel investigations including
9 examination and selection material for employment, hiring,
10 appointment, promotion, demotion, discipline, or resignation; or

11 2. Where disclosure would constitute a clearly unwarranted
12 invasion of personal privacy such as employee evaluations, payroll
13 deductions, employment applications submitted by persons not hired
14 by the public body, and transcripts from institutions of higher
15 education maintained in the personnel files of certified public
16 school employees; provided, however, that nothing in this subsection
17 shall be construed to exempt from disclosure the degree obtained and
18 the curriculum on the transcripts of certified public school
19 employees.

20 B. All personnel records not specifically falling within the
21 exceptions provided in subsection A of this section shall be
22 available for public inspection and copying including, but not
23 limited to, records of:
24

1 1. An employment application of a person who becomes a public
2 official;

3 2. The gross receipts of public funds;

4 3. The dates of employment, title or position; and

5 4. Any final disciplinary action resulting in loss of pay,
6 suspension, demotion of position, or termination.

7 C. Except as may otherwise be made confidential by statute, an
8 employee of a public body shall have a right of access to his own
9 personnel file.

10 D. Public bodies shall keep confidential the home address,
11 telephone numbers and social security numbers of any person employed
12 or formerly employed by the public body.

13 E. Except as otherwise required by Section 6-101.16 of Title 70
14 of the Oklahoma Statutes, public bodies shall keep confidential all
15 records created pursuant to the Oklahoma Teacher and Leader
16 Effectiveness Evaluation System (TLE) which identify a current or
17 former public employee and contain any evaluation, observation or
18 other TLE record of such employee.

19 SECTION 3. AMENDATORY 51 O.S. 2011, Section 24A.10, as
20 last amended by Section 1, Chapter 197, O.S.L. 2018 (51 O.S. Supp.
21 2020, Section 24A.10), is amended to read as follows:

22 Section 24A.10. A. Any information, records or other material
23 heretofore voluntarily supplied to any state agency, board or
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1 commission shall be subject to full disclosure pursuant to Section
2 24A.1 et seq. of this title.

3 B. If disclosure would give an unfair advantage to competitors
4 or bidders, a public body may keep confidential records relating to:

5 1. Bid specifications for competitive bidding prior to
6 publication by the public body; ~~or~~

7 2. Contents of sealed bids prior to the opening of bids by a
8 public body; ~~or~~

9 3. Computer programs or software but not data thereon; ~~or~~

10 4. Appraisals relating to the sale or acquisition of real
11 estate by a public body prior to award of a contract; or

12 5. The prospective location of a private business or industry
13 prior to public disclosure of such prospect except for records
14 otherwise open to inspection such as applications for permits or
15 licenses.

16 C. Except as set forth hereafter, the Oklahoma Department of
17 Commerce, the Oklahoma Department of Career and Technology
18 Education, the technology center school districts, the Oklahoma Film
19 and Music Office, institutions within the Oklahoma State System of
20 Higher Education, and the Department of Corrections may keep
21 confidential:

22 1. Business plans, feasibility studies, financing proposals,
23 marketing plans, financial statements or trade secrets submitted by
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1 a person or entity seeking economic advice, business development or
2 customized training from such Departments or school districts;

3 2. Proprietary information of the business submitted to the
4 Department or school districts for the purpose of business
5 development or customized training, and related confidentiality
6 agreements detailing the information or records designated as
7 confidential; and

8 3. Information compiled by such Departments or school districts
9 in response to those submissions.

10 The Oklahoma Department of Commerce, the Oklahoma Department of
11 Career and Technology Education, the technology center school
12 districts, the Oklahoma Film and Music Office, institutions within
13 the Oklahoma State System of Higher Education, and the Department of
14 Corrections may not keep confidential that submitted information
15 when and to the extent the person or entity submitting the
16 information consents to disclosure.

17 D. Although they must provide public access to their records,
18 including records of the address, rate paid for services, charges,
19 consumption rates, adjustments to the bill, reasons for adjustment,
20 the name of the person that authorized the adjustment, and payment
21 for each customer, public bodies that provide ~~utility~~ services to
22 the public ~~may~~ shall keep confidential and shall redact from any
23 record, personal email addresses, credit information, credit card
24 numbers, telephone numbers, social security numbers, bank account

1 information for individual customers, and any portion of any record
2 that contains the name or any other identifier of the occupants of
3 any residential structure. Public bodies that provide utility
4 services to the public may keep confidential utility supply and
5 utility equipment supply contracts for any industrial customer with
6 a connected electric load in excess of two thousand five hundred
7 (2,500) kilowatts if public access to such contracts would give an
8 unfair advantage to competitors of the customer; provided that,
9 where a public body performs billing or collection services for a
10 utility regulated by the Corporation Commission pursuant to a
11 contractual agreement, any customer or individual payment data
12 obtained or created by the public body in performance of the
13 agreement shall not be a record for purposes of ~~this act~~ the
14 Oklahoma Open Records Act.

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

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