

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

HOUSE BILL 3475

By: Grego

AS INTRODUCED

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

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

SECTION 1. AMENDATORY 51 O.S. 2021, 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

1 or private individual and may be redacted or deleted prior to
2 release of the record by the public body;

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

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

16 4. Any request for a record which contains individual records
17 of persons, and the cost of copying, reproducing or certifying each
18 individual record is otherwise prescribed by state law, the cost may
19 be assessed for each individual record, or portion thereof requested
20 as prescribed by state law. Otherwise, a public body may charge a
21 fee only for recovery of the reasonable, direct costs of record
22 copying, or mechanical reproduction. Notwithstanding any state or
23 local provision to the contrary, in no instance shall the record
24 copying fee exceed twenty-five cents (\$0.25) per page for records

1 having the dimensions of eight and one-half (8 1/2) by fourteen (14)
2 inches or smaller, or a maximum of One Dollar (\$1.00) per copied
3 page for a certified copy. However, if the request:

4 a. is solely for commercial purpose, or

5 b. would clearly cause excessive disruption of the
6 essential functions of the public body,

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

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

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

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

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

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

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