

# An Act

ENROLLED HOUSE  
BILL NO. 3779

By: Duel of the House

and

Standridge of the Senate

An Act relating to the Oklahoma Open Records Act; amending 51 O.S. 2021, Sections 24A.3, as last amended by Section 11, Chapter 271, O.S.L. 2023, 24A.5, as amended by Section 5, Chapter 332, O.S.L. 2023, and 24A.17 (51 O.S. Supp. 2023, Sections 24A.3 and 24A.5), which relate to public records; reducing the list of things defined as nonrecords; increasing the types of confidential records; prescribing a deadline to notify of intent to file suit for denied record access; and providing an effective date.

SUBJECT: Oklahoma Open Records Act

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

SECTION 1. AMENDATORY 51 O.S. 2021, Section 24A.3, as last amended by Section 11, Chapter 271, O.S.L. 2023 (51 O.S. Supp. 2023, 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 of physical form or characteristic, created by, received by, under the authority of, or coming into the custody, control or possession of public officials, public bodies or their representatives in connection with the transaction of public business, the expenditure of public funds or the administering of public property. Record does not mean:

a. computer software, or

- b. ~~nongovernment personal effects,~~
- e. ~~unless public disclosure is required by other laws or regulations, vehicle movement records of the Oklahoma Transportation Authority obtained in connection with the Authority's electronic toll collection system,~~
- d. ~~personal financial information, credit reports or other financial data obtained by or submitted to a public body for the purpose of evaluating credit worthiness, obtaining a license, permit or for the purpose of becoming qualified to contract with a public body,~~
- e. ~~any digital audio/video recordings of the toll collection and safeguarding activities of the Oklahoma Transportation Authority,~~
- f. ~~any personal information provided by a guest at any facility owned or operated by the Oklahoma Tourism and Recreation Department to obtain any service at the facility or by a purchaser of a product sold by or through the Oklahoma Tourism and Recreation Department,~~
- 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,~~
- 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,~~
- i. ~~any portion of any document or information provided to an agency or entity of the state or a political~~

~~subdivision to obtain licensure under the laws of this state or a political subdivision that contains an applicant's personal address, personal phone number, personal electronic mail address or other contact information. Provided, however, lists of persons licensed, the existence of a license of a person, or a business or commercial address, or other business or commercial information disclosable under state law submitted with an application for licensure shall be public record, or~~

- ~~j. an investigative file obtained during an investigation conducted by the State Department of Health under this act;~~

2. "Public body" shall include, but not be limited to, any office, department, board, bureau, commission, agency, trusteeship, authority, council, committee, trust or any entity created by a trust, county, city, village, town, township, district, school district, fair board, court, executive office, advisory group, task force, study group or any subdivision thereof, supported in whole or in part by public funds or entrusted with the expenditure of public funds or administering or operating public property, and all committees, or subcommittees thereof. Except for the records required by Section 24A.4 of this title, public body does not mean judges, justices, the Council on Judicial Complaints, the Legislature or legislators. Public body shall not include an organization that is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and whose sole beneficiary is a college or university, or an affiliated entity of the college or university, that is a member of The Oklahoma State System of Higher Education. Such organization shall not receive direct appropriations from the Oklahoma Legislature. The following persons shall not be eligible to serve as a voting member of the governing board of the organization:

- a. a member, officer, or employee of the Oklahoma State Regents for Higher Education,
- b. a member of the board of regents or other governing board of the college or university that is the sole beneficiary of the organization, or
- c. an officer or employee of the college or university that is the sole beneficiary of the organization;

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

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

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

SECTION 2. AMENDATORY 51 O.S. 2021, Section 24A.5, as amended by Section 5, Chapter 332, O.S.L. 2023 (51 O.S. Supp. 2023, 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,

- e. any test forms, question banks and answer keys developed for state licensure examinations, but specifically excluding test preparation materials or study guides, ~~or~~
- f. last names, addresses, ~~social security~~ Social Security numbers or tax identification numbers, and proof of identification submitted to the Oklahoma Lottery Commission by persons claiming a lottery prize,
- g. unless public disclosure is required by other laws or regulations, vehicle movement records of the Oklahoma Transportation Authority obtained in connection with the Authority's electronic toll collection system,
- h. personal financial information, credit reports, or other financial data obtained by or submitted to a public body for the purpose of evaluating credit worthiness, obtaining a license, permit, or for the purpose of becoming qualified to contract with a public body,
- i. any digital audio/video recordings of the toll collection and safeguarding activities of the Oklahoma Transportation Authority,
- j. any personal information provided by a guest at any facility owned or operated by the Oklahoma Tourism and Recreation Department to obtain any service at the facility or by a purchaser of a product sold by or through the Oklahoma Tourism and Recreation Department,
- k. a Department of Defense Form 214 (DD Form 214) filed with a county clerk, including any DD Form 214 filed before July 1, 2002,
- l. 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 U.S.C., Sections 2721 through 2725, which are stored and maintained by the Department of Public Safety,

m. any portion of any document or information provided to an agency or entity of the state or a political subdivision to obtain licensure under the laws of this state or a political subdivision that contains an applicant's personal address, personal phone number, personal email address, any government-issued identification numbers, or other contact information; provided, however, lists of persons licensed, the existence of a license of a person, or a business or commercial address, or other business or commercial information disclosable under state law submitted with an application for licensure shall be public record, unless the business or commercial address is the same as the applicant's personal address, except when the applicant permits in writing the disclosure of the address,

n. an investigative file obtained during an investigation conducted by the State Department of Health into violations of the Long-Term Care Administrator Licensing Act under Title 63 of the Oklahoma Statutes, or

o. documents, evidence, materials, records, reports, complaints, or other information in the possession or control of the Attorney General or Insurance Department pertaining to an evaluation, examination, investigation, or review made pursuant to the provisions of the Patient's Right to Pharmacy Choice Act, the Pharmacy Audit Integrity Act, or Sections 357 through 360 of Title 59 of the Oklahoma Statutes;

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

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

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

4. Any request for a record which contains individual records of persons, and the cost of copying, reproducing or certifying each individual record is otherwise prescribed by state law, the cost may be assessed for each individual record, or portion thereof requested as prescribed by state law. Otherwise, a public body may charge a fee only for recovery of the reasonable, direct costs of record copying, or mechanical reproduction. Notwithstanding any state or local provision to the contrary, in no instance shall the record copying fee exceed twenty-five cents (\$0.25) per page for records having the dimensions of eight and one-half (8 1/2) by fourteen (14) inches or smaller, or a maximum of One Dollar (\$1.00) per copied page for a certified copy. However, if the request:

- a. is solely for commercial purpose, or
- b. would clearly cause excessive disruption of the essential functions of the public body,

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

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

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

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

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

6. A public body must provide prompt, reasonable access to its records but may establish reasonable procedures which protect the integrity and organization of its records and to prevent excessive disruptions of its essential functions. A delay in providing access to records shall be limited solely to the time required for preparing the requested documents and the avoidance of excessive disruptions of the public body's essential functions. In no event may production of a current request for records be unreasonably delayed until after completion of a prior records request that will take substantially longer than the current request. Any public body which makes the requested records available on the Internet shall meet the obligation of providing prompt, reasonable access to its records as required by this paragraph; and

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

SECTION 3. AMENDATORY 51 O.S. 2021, Section 24A.17, is amended to read as follows:



Section 24A.17 A. Any public official who willfully violates any provision of the Oklahoma Open Records Act, upon conviction, shall be guilty of a misdemeanor, and shall be punished by a fine not exceeding Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for a period not exceeding one (1) year, or by both such fine and imprisonment.

B. Any person who requests and is denied access to records of a public body or public official:

1. May bring a civil suit for declarative or injunctive relief, or both, but such civil suit shall be limited to records requested and denied prior to filing of the civil suit; and

2. If successful, shall be entitled to reasonable attorney fees.

C. Prior to bringing a civil suit under subsection B of this section, any person seeking declaratory or injunctive relief, or both, must notify the public body or public official of his or her intent to bring a civil suit to obtain relief in writing ten (10) business days prior to filing for such relief. Such notice must also be provided to the Attorney General.

D. If the public body or public official successfully defends a civil suit and the court finds that the suit was clearly frivolous, the public body or public official shall be entitled to reasonable attorney fees.

~~D.~~ E. A public body or public official shall not be civilly liable for damages for providing access to records as allowed under the Oklahoma Open Records Act.

SECTION 4. This act shall become effective November 1, 2024.

Passed the House of Representatives the 7th day of March, 2024.

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Presiding Officer of the House  
of Representatives

Passed the Senate the 17th day of April, 2024.

\_\_\_\_\_  
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_