

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 SENATE BILL 1716

By: Gollihare

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5
6 AS INTRODUCED

7 An Act relating to mental health records; amending 25
8 O.S. 2021, Section 307, as amended by Section 1,
9 Chapter 182, O.S.L. 2022 (25 O.S. Supp. 2023, Section
10 307), which relates to executive sessions under the
11 Oklahoma Open Meeting Act; authorizing executive
12 session by professional licensing board under certain
13 circumstances; requiring professional licensing board
14 to keep certain records confidential; providing
15 exceptions; requiring destruction of records under
16 certain circumstances; updating statutory language;
17 updating statutory reference; providing for
18 codification; and providing an effective date.

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

20 SECTION 1. AMENDATORY 25 O.S. 2021, Section 307, as
21 amended by Section 1, Chapter 182, O.S.L. 2022 (25 O.S. Supp. 2023,
22 Section 307), is amended to read as follows:

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

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

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

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

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

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

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

17 6. Discussing matters involving a specific ~~handicapped~~ disabled
18 child;

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

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

1 9. Discussing matters involving safety and security at state
2 penal institutions or correctional facilities used to house state
3 inmates;

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

11 11. Discussing the following:

- 12 a. the investigation of a plan or scheme to commit an act
13 of terrorism,
- 14 b. assessments of the vulnerability of government
15 facilities or public improvements to an act of
16 terrorism,
- 17 c. plans for deterrence or prevention of or protection
18 from an act of terrorism,
- 19 d. plans for response or remediation after an act of
20 terrorism,
- 21 e. information technology of the public body but only if
22 the discussion specifically identifies:

- (1) design or functional schematics that demonstrate the relationship or connections between devices or systems,
- (2) system configuration information,
- (3) security monitoring and response equipment 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, or

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

12. Reviewing and discussing mental health documents related to a licensee under investigation or review by a professional licensing board if:

- 1 a. the executive session is held only to review or
2 discuss mental health documents directly related to
3 the licensee or to receive testimony from relevant
4 witnesses as necessary for the board to make a
5 determination in the matter,
- 6 b. the documents reviewed or discussed are kept
7 confidential, privileged and not discoverable in civil
8 actions, and not made available to the public, and
- 9 c. the licensee is given the opportunity to be present
10 during any witness testimony or discussion of the
11 mental health documents.

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

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

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

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

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

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

4 6. The Oklahoma Workers' Compensation Commission for the
5 purposes provided for in Section ~~20~~ 22 of Title 85A of the Oklahoma
6 Statutes;

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

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

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

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

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

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

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

12 14. The Oklahoma Municipal Power Authority established pursuant
13 to Section 24-101 et seq. of Title 11 of the Oklahoma Statutes and
14 in its role as an electric utility regulated by the federal
15 government, for purposes of discussing security plans and procedures
16 including, but not limited to, cybersecurity matters; and

17 15. The Oklahoma Tax Commission for purposes of discussing
18 confidential taxpayer matters as provided in Section 205 of Title 68
19 of the Oklahoma Statutes, and in compliance with subsection E of
20 this section.

21 D. Except as otherwise specified in this subsection, an
22 executive session for the purpose of discussing the purchase or
23 appraisal of real property shall be limited to members of the public
24 body, the attorney for the public body and the immediate staff of

1 the public body. No landowner, real estate salesperson, broker,
2 developer or any other person who may profit directly or indirectly
3 by a proposed transaction concerning real property which is under
4 consideration may be present or participate in the executive
5 session, unless they are operating under an existing agreement to
6 represent the public body.

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

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

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

13 3. Except for matters considered in executive sessions of the
14 ~~State~~ Banking Board and the Oklahoma Tax Commission, and which are
15 required by state or federal law to be confidential, any vote or
16 action on any item of business considered in an executive session
17 shall be taken in public meeting with the vote of each member
18 publicly cast and recorded.

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

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

22 2. Cause the minutes and all other records of the executive
23 session including tape recordings, to be immediately made public.
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1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 24A.34 of Title 51, unless there
3 is created a duplication in numbering, reads as follows:

4 A. A professional licensing board shall keep confidential all
5 records of any mental health diagnosis, counseling, or treatment of
6 a licensee retained by the licensing board. Such records may only
7 be released:

- 8 1. To the licensee who is the subject of the records;
- 9 2. To an authorized representative of the licensing board that
10 holds the records for the purpose of evaluating the fitness of the
11 licensee to engage in the practice of the licensed profession;
- 12 3. Upon a court order; or
- 13 4. In case of emergency if the licensee poses a danger to
14 himself or herself or others.

15 B. Upon request of the licensee, any mental health records
16 retained by the licensing board shall be destroyed when the licensee
17 retires or resigns from the licensed profession or in accordance
18 with the laws of this state for archiving records, whichever is
19 earlier.

20 SECTION 3. This act shall become effective November 1, 2024.

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