

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 SENATE BILL NO. 1299

By: Sparks of the Senate

and

Kannady of the House

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9 COMMITTEE SUBSTITUTE

10 An Act relating to the Oklahoma Discovery Code;
11 amending 12 O.S. 2011, Section 3234, as amended by
12 Section 4, Chapter 378, O.S.L. 2017 (12 O.S. Supp.
13 2017, Section 3234), which relates to production and
14 inspection of documents and property; modifying
15 procedures for certain service and response;
16 repealing 12 O.S. 2011, Section 3234, as amended by
17 Section 6, Chapter 389, O.S.L. 2017 (12 O.S. Supp.
18 2017, Section 3234), which relates to production and
19 inspection of documents and property; and declaring
20 an emergency.

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

22 SECTION 1. AMENDATORY 12 O.S. 2011, Section 3234, as
23 amended by Section 4, Chapter 378, O.S.L. 2017 (12 O.S. Supp. 2017,
24 Section 3234), is amended to read as follows:

Section 3234. A. IN GENERAL. A party may serve on any other
party a request within the scope of Section 3226 of this title:

1 1. To produce and permit the requesting party or its
2 representative to inspect, copy, test or sample the following items
3 in the possession, custody or control of the responding party:

4 a. any designated documents or electronically stored
5 information - including writings, drawings, graphs,
6 charts, photographs, sound recordings, images and
7 other data or data compilations - stored in any medium
8 from which information can be obtained either directly
9 or, if necessary, after translation by the responding
10 party into a reasonably usable form, or

11 b. any designated tangible things; or

12 2. To permit entry onto designated land or other property
13 possessed or controlled by the responding party so that the
14 requesting party may inspect, measure, survey, photograph, test or
15 sample the property or any designated object or operation on it.

16 B. PROCEDURE. 1. The request described in subsection A of
17 this section may be served, without leave of court, upon any party
18 after the filing of an answer. Upon leave of court or otherwise
19 agreed to in writing by the parties subject to Section 3229 of this
20 title, the request may be served and responded to prior to the
21 filing of an answer.

22 2. The request:

23 a. shall describe with reasonable particularity each item
24 or category of items to be inspected,

- 1 b. shall specify a reasonable time, place and manner for
2 the inspection and for performing the related acts,
3 and
4 c. may specify the form or forms in which electronically
5 stored information is to be produced.

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7 3. a. The party to whom the request is directed shall
8 respond in writing within thirty (30) days after being
9 served.

- 10 b. For each item or category, the response shall either
11 state that inspection and related activities will be
12 permitted as requested or state with specificity the
13 grounds for objecting to the request, including the
14 reasons. The responding party may state that it will
15 produce copies of documents or of electronically
16 stored information instead of permitting inspection.
17 The production shall be completed no later than the
18 time for inspection specified in the request, or
19 another reasonable time specified in the response.

- 20 c. An objection shall state whether any responsive
21 materials are being withheld on the basis of that
22 objection. An objection to part of a request shall
23 specify the part and permit inspection of the rest.

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1 d. The response may state an objection to a requested
2 form for producing electronically stored information.
3 If the responding party objects to a requested form,
4 or if no form was specified in the request, the party
5 shall state the form or forms it intends to use.

6 e. Unless otherwise stipulated or ordered by the court,
7 these procedures apply to producing documents or
8 electronically stored information:

9 (1) a party shall produce documents as they are kept
10 in the usual course of business or shall organize
11 and label them to correspond to the categories in
12 the request,

13 (2) if a request does not specify a form for
14 producing electronically stored information, a
15 party shall produce it in a form or forms in
16 which it is ordinarily maintained or in a
17 reasonably usable form or forms, and

18 (3) a party need not produce the same electronically
19 stored information in more than one form.

20 C. NONPARTIES. A nonparty may be compelled to produce
21 documents and tangible things or to permit an inspection as provided
22 in Section 2004.1 of this title.

1 SECTION 2. REPEALER 12 O.S. 2011, Section 3234, as
2 amended by Section 6, Chapter 389, O.S.L. 2017 (12 O.S. Supp. 2017,
3 Section 3234), is hereby repealed.

4 SECTION 3. It being immediately necessary for the preservation
5 of the public peace, health or safety, an emergency is hereby
6 declared to exist, by reason whereof this act shall take effect and
7 be in full force from and after its passage and approval.

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