

1 **SENATE FLOOR VERSION**

February 14, 2023

2 **AS AMENDED**

3 SENATE BILL NO. 89

By: Kirt of the Senate

4 and

5 Echols of the House

6
7
8 An Act relating to the Oklahoma Open Records Act;
9 amending 51 O.S. 2021, Section 24A.5, which relates
10 to inspection and copying of records; requiring
11 certain written notice when records request cannot be
12 completed within a specified time; and providing an
13 effective date.

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

15 SECTION 1. AMENDATORY 51 O.S. 2021, Section 24A.5, is
16 amended to read as follows:

17 Section 24A.5. All records of public bodies and public
18 officials shall be open to any person for inspection, copying, or
19 mechanical reproduction during regular business hours; provided:

20 1. The Oklahoma Open Records Act, Sections 24A.1 through ~~24A.30~~
21 24A.33 of this title, does not apply to records specifically
22 required by law to be kept confidential including:

- 23 a. records protected by a state evidentiary privilege
24 such as the attorney-client privilege, the work

1 product immunity from discovery and the identity of
2 informer privileges,

3 b. records of what transpired during meetings of a public
4 body lawfully closed to the public such as executive
5 sessions authorized under the Oklahoma Open Meeting
6 Act,

7 c. personal information within driver records as defined
8 by the Driver's Privacy Protection Act, 18 United
9 States Code, Sections 2721 through 2725,

10 d. information in the files of the Board of Medicolegal
11 Investigations obtained pursuant to Sections 940 and
12 941 of Title 63 of the Oklahoma Statutes that may be
13 hearsay, preliminary unsubstantiated investigation-
14 related findings, or confidential medical information,
15 or

16 e. any test forms, question banks and answer keys
17 developed for state licensure examinations, but
18 specifically excluding test preparation materials or
19 study guides;

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

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

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

14 4. Any request for a record which contains individual records
15 of persons, and the cost of copying, reproducing or certifying each
16 individual record is otherwise prescribed by state law, the cost may
17 be assessed for each individual record, or portion thereof requested
18 as prescribed by state law. Otherwise, a public body may charge a
19 fee only for recovery of the reasonable, direct costs of record
20 copying, or mechanical reproduction. Notwithstanding any state or
21 local provision to the contrary, in no instance shall the record
22 copying fee exceed twenty-five cents (\$0.25) per page for records
23 having the dimensions of eight and one-half (8 1/2) by fourteen (14)

1 inches or smaller, or a maximum of One Dollar (\$1.00) per copied
2 page for a certified copy. However, if the request:

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

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

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

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

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

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

10 6. A public body must provide prompt, reasonable access to its
11 records but may establish reasonable procedures which protect the
12 integrity and organization of its records and to prevent excessive
13 disruptions of its essential functions. A delay in providing access
14 to records shall be limited solely to the time required for
15 preparing the requested documents and the avoidance of excessive
16 disruptions of the public body's essential functions. If a records
17 request cannot be completed within **ten (10)** business days of the
18 request, a person designated pursuant to paragraph 7 of this section
19 shall provide written notice to the requestor indicating the reason
20 for the delay and specifying a date within a reasonable time when
21 the information requested will be available for inspection or
22 duplication. In no event may production of a current request for
23 records be unreasonably delayed until after completion of a prior
24 records request that will take substantially longer than the current

1 request. Any public body which makes the requested records
2 available on the Internet shall meet the obligation of providing
3 prompt, reasonable access to its records as required by this
4 paragraph; and

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

10 SECTION 2. This act shall become effective November 1, 2023.

11 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
12 February 14, 2023 - DO PASS AS AMENDED
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