

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 SENATE BILL 535

By: Daniels

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5
6 AS INTRODUCED

7 An Act relating to the Oklahoma Open Records Act;
8 amending 51 O.S. 2021, Sections 24A.3, as last
9 amended by Section 1, Chapter 358, O.S.L. 2024,
10 24A.5, as last amended by Section 2, Chapter 116,
11 O.S.L. 2024, and 24A.17, as amended by Section 3,
12 Chapter 116, O.S.L. 2024 (51 O.S. Supp. 2024,
13 Sections 24A.3, 24A.5, and 24A.17), which relate to
14 definitions, inspection and copying of records, and
15 violations and penalties; modifying definition;
16 adding exceptions to keep certain records
17 confidential; authorizing public body to require
18 advance payment for certain records requests;
19 requiring return of portion of advance payment under
20 certain circumstances; authorizing public body to
21 request clarification for certain records requests;
22 establishing requirements for specificity of records
23 requests; allowing denial of records requests under
24 certain circumstances; creating exception for award
of attorney fees; and providing an effective date.

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

20 SECTION 1. AMENDATORY 51 O.S. 2021, Section 24A.3, as
21 last amended by Section 1, Chapter 358, O.S.L. 2024 (51 O.S. Supp.
22 2024, Section 24A.3), is amended to read as follows:

23 Section 24A.3. As used in the Oklahoma Open Records Act:

1 1. "Record" means all documents including, but not limited to,
2 any book, paper, photograph, microfilm, data files created by or
3 used with computer software, computer tape, disk, record, sound
4 recording, film recording, video record or other material regardless
5 of physical form or characteristic, created by, received by, under
6 the authority of, or coming into the custody, control or possession
7 of public officials, public bodies or their representatives in
8 connection with the transaction of public business, the expenditure
9 of public funds or the administering of public property. Record
10 shall also mean applications and other documents related to
11 licensure matters that are filed of record in a district court,
12 including, but not limited to, marriage licenses, process server
13 licenses, closing out sale licenses, transient merchant licenses,
14 pool hall licenses, and bail bondsmen registration. Record does not
15 mean:

- 16 a. computer software, or
- 17 b. nongovernment personal effects;

18 2. "Public body" shall include, but not be limited to, any
19 office, department, board, bureau, commission, agency, trusteeship,
20 authority, council, committee, trust or any entity created by a
21 trust, county, city, village, town, township, district, school
22 district, fair board, court, executive office, advisory group, task
23 force, study group or any subdivision thereof, supported in whole or
24 in part by public funds or entrusted with the expenditure of public

1 funds or administering or operating public property, and all
2 committees, or subcommittees thereof. Except for the records
3 required by Section 24A.4 of this title, public body does not mean
4 judges, justices, the Council on Judicial Complaints, the
5 Legislature or legislators. Public body shall not include an
6 organization that is exempt from federal income tax under Section
7 501(c)(3) of the Internal Revenue Code of 1986, as amended, and
8 whose sole beneficiary is a college or university, or an affiliated
9 entity of the college or university, that is a member of The
10 Oklahoma State System of Higher Education. Such organization shall
11 not receive direct appropriations from the Legislature. The
12 following persons shall not be eligible to serve as a voting member
13 of the governing board of the organization:

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

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

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

1 5. "Law enforcement agency" means any public body charged with
2 enforcing state or local criminal laws and initiating criminal
3 prosecutions including, but not limited to, police departments,
4 state and local fire marshals when investigating potential
5 violations of federal, state, or local criminal laws or when acting
6 on behalf of a law enforcement agency, county sheriffs, the
7 Department of Public Safety, the Oklahoma State Bureau of Narcotics
8 and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement
9 Commission, and the Oklahoma State Bureau of Investigation.

10 SECTION 2. AMENDATORY 51 O.S. 2021, Section 24A.5, as
11 last amended by Section 2, Chapter 116, O.S.L. 2024 (51 O.S. Supp.
12 2024, Section 24A.5), is amended to read as follows:

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

16 1. The Oklahoma Open Records Act, Sections 24A.1 through 24A.30
17 of this title, does not apply to records specifically required by
18 law to be kept confidential including:

- 19 a. records protected by a state evidentiary privilege
20 such as the attorney-client privilege, the work
21 product immunity from discovery and the identity of
22 informer privileges,
- 23 b. records of what transpired during meetings of a public
24 body lawfully closed to the public such as executive

1 sessions authorized under the Oklahoma Open Meeting
2 Act,

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

6 d. information in the files of the Board of Medicolegal
7 Investigations obtained pursuant to Sections 940 and
8 941 of Title 63 of the Oklahoma Statutes that may be
9 hearsay, preliminary unsubstantiated investigation-
10 related findings, or confidential medical information,

11 e. any test forms, question banks and answer keys
12 developed for state licensure examinations, but
13 specifically excluding test preparation materials or
14 study guides,

15 f. last names, addresses, Social Security numbers or tax
16 identification numbers, and proof of identification
17 submitted to the Oklahoma Lottery Commission by
18 persons claiming a lottery prize,

19 g. unless public disclosure is required by other laws or
20 regulations, vehicle movement records of the Oklahoma
21 Transportation Authority obtained in connection with
22 the Authority's electronic toll collection system,

23 h. personal financial information, credit reports, or
24 other financial data obtained by or submitted to a
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1 public body for the purpose of evaluating credit
2 worthiness, obtaining a license, permit, or for the
3 purpose of becoming qualified to contract with a
4 public body,

5 i. any digital audio/video recordings of the toll
6 collection and safeguarding activities of the Oklahoma
7 Transportation Authority,

8 j. any personal information provided by a guest at any
9 facility owned or operated by the Oklahoma Tourism and
10 Recreation Department to obtain any service at the
11 facility or by a purchaser of a product sold by or
12 through the Oklahoma Tourism and Recreation
13 Department,

14 k. a Department of Defense Form 214 (DD Form 214) filed
15 with a county clerk, including any DD Form 214 filed
16 before July 1, 2002,

17 l. except as provided for in Section 2-110 of Title 47 of
18 the Oklahoma Statutes:

19 (1) any record in connection with a Motor Vehicle
20 Report issued by the Department of Public Safety,
21 as prescribed in Section 6-117 of Title 47 of the
22 Oklahoma Statutes, or

23 (2) personal information within driver records, as
24 defined by the Driver's Privacy Protection Act,

1 18 U.S.C., Sections 2721 through 2725, which are
2 stored and maintained by the Department of Public
3 Safety,

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

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

24 ~~or~~

1 o. documents, evidence, materials, records, reports,
2 complaints, or other information in the possession or
3 control of the Attorney General or Insurance
4 Department pertaining to an evaluation, examination,
5 investigation, or review made pursuant to the
6 provisions of the Patient's Right to Pharmacy Choice
7 Act, the Pharmacy Audit Integrity Act, or Sections 357
8 through 360 of Title 59 of the Oklahoma Statutes, or
9 p. records sought by a party or the party's
10 representative to a pending civil litigation or
11 criminal prosecution in which the records may be
12 sought through a subpoena process;

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

17 3. Any home address, home telephone number, private electronic
18 mail address, and private mobile phone number of a person may be
19 confidential regardless of the person's status as a public employee
20 or private individual and may be redacted or deleted prior to
21 release of the record by the public body; provided, any address and
22 telephone number used for business purposes may be made available
23 for public inspection;

1 4. 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.~~ 5. Any request for a record which contains individual
15 records of persons, and the cost of copying, reproducing or
16 certifying each individual record is otherwise prescribed by state
17 law, the cost may be assessed for each individual record, or portion
18 thereof requested as prescribed by state law. Otherwise, a public
19 body may charge a fee only for recovery of the reasonable, direct
20 costs of record copying, or mechanical reproduction.

21 Notwithstanding any state or local provision to the contrary, in no
22 instance shall the record copying fee exceed twenty-five cents
23 (\$0.25) per page for records having the dimensions of eight and one-
24 half (8 1/2) by fourteen (14) inches or smaller, or a maximum of One

1 Dollar (\$1.00) per copied page for a certified copy. However, if
2 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. A public body may require
16 advance payment of the estimated fees authorized under this section
17 when the estimated costs of searching, redacting, or making a copy
18 of the record or records exceeds Seventy-five Dollars (\$75.00). Any
19 portion of an advance payment that exceeds the costs of responding
20 to the request shall be returned to the requestor.

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

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

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

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

16 ~~6.~~ 7. A public body must provide prompt, reasonable access to
17 its records but may establish reasonable procedures which protect
18 the integrity and organization of its records and to prevent
19 excessive disruptions of its essential functions. A delay in
20 providing access to records shall be limited solely to the time
21 required for preparing the requested documents and the avoidance of
22 excessive disruptions of the public body's essential functions. In
23 no event may production of a current request for records be
24 unreasonably delayed until after completion of a prior records

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

6 8. If a records request is unreasonably vague, open-ended, or
7 otherwise does not describe the requested records with reasonable
8 specificity, a public body may ask the requestor to clarify the
9 request. To have reasonable specificity, a request shall:

- 10 a. specify a general time frame within which the
11 requested records would have been created or
12 transmitted,
- 13 b. seek identifiable records, rather than general
14 information without any qualifiers or other
15 specifications, and
- 16 c. include search terms that are sufficiently specific to
17 avoid generating an unreasonably large number of
18 records, such as thousands of pages of emails.

19 If a public body has engaged with the requestor to seek the
20 information needed to fulfill the request and to reach a reasonable
21 solution that accommodates the interests of both the requestor and
22 the public body, including providing the requestor with general
23 topics of records related to the request, the request may be denied
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1 if it is still not reasonably specific and would excessively disrupt
2 the public body's essential functions; and

3 ~~7.~~ 9. A public body shall designate certain persons who are
4 authorized to release records of the public body for inspection,
5 copying, or mechanical reproduction. At least one person shall be
6 available at all times to release records during the regular
7 business hours of the public body.

8 SECTION 3. AMENDATORY 51 O.S. 2021, Section 24A.17, as
9 amended by Section 3, Chapter 116, O.S.L. 2024 (51 O.S. Supp. 2024,
10 Section 24A.17), is amended to read as follows:

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

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

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

22 2. If successful, shall be entitled to reasonable attorney fees
23 unless the court finds the public body or public official acted in
24 good faith.

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

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

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

14 SECTION 4. This act shall become effective November 1, 2025.

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