

1 **SENATE FLOOR VERSION**

2 February 19, 2019

3 SENATE BILL NO. 300

By: Daniels

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5  
6 An Act relating to the Oklahoma Discovery Code;  
7 amending 12 O.S. 2011, Section 3234, as last amended  
8 by Section 2, Chapter 313, O.S.L. 2018 (12 O.S. Supp.  
9 2018, Section 3234), which relates to production of  
10 documents; imposing limitation upon requests to  
11 produce certain documents or other items;  
12 establishing procedures for additional requests for  
13 production; and providing an effective date.

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

15 SECTION 1. AMENDATORY 12 O.S. 2011, Section 3234, as  
16 last amended by Section 2, Chapter 313, O.S.L. 2018 (12 O.S. Supp.  
17 2018, Section 3234), is amended to read as follows:

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

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

- 23 a. any designated documents or electronically stored  
24 information - including writings, drawings, graphs,  
charts, photographs, sound recordings, images and  
other data or data compilations - stored in any medium

1 from which information can be obtained either directly  
2 or, if necessary, after translation by the responding  
3 party into a reasonably usable form, or

4 b. any designated tangible things; or

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

9 B. PROCEDURE. 1. The request:

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

12 b. shall specify a reasonable time, place and manner for  
13 the inspection and for performing the related acts,  
14 and

15 c. may specify the form or forms in which electronically  
16 stored information is to be produced.

17 2. The number of requests to produce or permit inspection or  
18 copying shall not exceed thirty in number. If counsel for a party  
19 believes that more than thirty requests to produce or permit  
20 inspection or copying are necessary, counsel shall consult with  
21 opposing counsel promptly and attempt to reach a written stipulation  
22 as to a reasonable number of additional requests. Counsel are  
23 expected to comply with this requirement in good faith. In the  
24 event a written stipulation cannot be agreed upon, the party seeking

1 to submit such additional requests for production or inspection  
2 shall file a motion with the court (1) showing that counsel have  
3 conferred in good faith but sincere attempts to resolve the issue  
4 have been unavailing, (2) showing reasons establishing good cause  
5 for their use, and (3) setting forth the proposed additional  
6 requests for production or inspection.

7 3. a. The request may be served, without leave of court,  
8 upon any party after the filing of a petition. The  
9 party to whom the request is directed shall respond in  
10 writing within thirty (30) days after being served.  
11 The thirty-day response period shall not commence  
12 until an answer to the petition is filed. However,  
13 upon leave of court or otherwise agreed to in writing  
14 by the parties subject to Section 3229 of this title,  
15 the response to the request may be required prior to  
16 the filing of an answer to the petition.

17 b. For each item or category, the response shall either  
18 state that inspection and related activities will be  
19 permitted as requested or state with specificity the  
20 grounds for objecting to the request, including the  
21 reasons. The responding party may state that it will  
22 produce copies of documents or of electronically  
23 stored information instead of permitting inspection.  
24 The production shall be completed no later than the

1 time for inspection specified in the request, or  
2 another reasonable time specified in the response.

3 c. An objection shall state whether any responsive  
4 materials are being withheld on the basis of that  
5 objection. An objection to part of a request shall  
6 specify the part and permit inspection of the rest.

7 d. The response may state an objection to a requested  
8 form for producing electronically stored information.  
9 If the responding party objects to a requested form,  
10 or if no form was specified in the request, the party  
11 shall state the form or forms it intends to use.

12 e. Unless otherwise stipulated or ordered by the court,  
13 these procedures apply to producing documents or  
14 electronically stored information:

15 (1) a party shall produce documents as they are kept  
16 in the usual course of business or shall organize  
17 and label them to correspond to the categories in  
18 the request,

19 (2) if a request does not specify a form for  
20 producing electronically stored information, a  
21 party shall produce it in a form or forms in  
22 which it is ordinarily maintained or in a  
23 reasonably usable form or forms, and  
24

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

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

6 SECTION 2. This act shall become effective November 1, 2019.

7 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
8 February 19, 2019 - DO PASS  
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