

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 SENATE BILL 1272

By: Dugger

4
5
6 AS INTRODUCED

7 An Act relating to the Oklahoma Open Records Act;
8 amending 51 O.S. 2021, Section 24A.5, which relates
9 to inspection or copying of records; limiting persons
10 authorized to request records from public bodies;
11 modifying fee schedule for public record requests;
12 requiring posting and publication of certain fee
13 schedule; authorizing public body to require prior
14 payment for record production; authorizing additional
15 search and processing fees under certain
16 circumstances; providing for judicial determination
17 of public interest in certain circumstances;
18 establishing exceptions to search requirements; and
19 providing an effective date.

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

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

23 Section 24A.5. All records of public bodies and public
24 officials shall be open to any resident or person doing business in
25 this state for inspection, copying, or mechanical reproduction
26 during regular business hours; provided:

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

- 4 a. records protected by a state evidentiary privilege
5 such as the attorney-client privilege, the work
6 product immunity from discovery and the identity of
7 informer privileges,
- 8 b. records of what transpired during meetings of a public
9 body lawfully closed to the public such as executive
10 sessions authorized under the Oklahoma Open Meeting
11 Act,
- 12 c. personal information within driver records as defined
13 by the Driver's Privacy Protection Act, 18 United
14 States Code, Sections 2721 through 2725,
- 15 d. information in the files of the Board of Medicolegal
16 Investigations obtained pursuant to Sections 940 and
17 941 of Title 63 of the Oklahoma Statutes that may be
18 hearsay, preliminary unsubstantiated investigation-
19 related findings, or confidential medical information,
20 or
- 21 e. any test forms, question banks and answer keys
22 developed for state licensure examinations, but
23 specifically excluding test preparation materials or
24 study guides;

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

5 3. Any reasonably segregable portion of a record containing
6 exempt material shall be provided after deletion of the exempt
7 portions; ~~provided however, the~~

8 4. The Department of Public Safety shall not be required to
9 assemble for the requesting person specific information, in any
10 format, from driving records relating to any person whose name and
11 date of birth or whose driver license number is not furnished by the
12 requesting person.;

13 5. The Oklahoma State Bureau of Investigation shall not be
14 required to assemble for the requesting person any criminal history
15 records relating to persons whose names, dates of birth, and other
16 identifying information required by the Oklahoma State Bureau of
17 Investigation pursuant to administrative rule are not furnished by
18 the requesting person;

19 ~~4.~~ 6. Any request for a record which contains individual
20 records of persons, and the cost of copying, reproducing or
21 certifying each individual record is otherwise prescribed by state
22 law, the cost may be assessed for each individual record, or portion
23 thereof requested as prescribed by state law. Otherwise, a public
24 body may charge a fee only for recovery of the reasonable, direct

1 costs of record search, copying, or mechanical reproduction.

2 Notwithstanding any state or local provision to the contrary, in no
3 instance shall the record copying fee exceed ~~twenty-five cents~~
4 ~~(\$0.25) per page for records having the dimensions of eight and one-~~
5 ~~half (8 1/2) by fourteen (14) inches or smaller, or a maximum of One~~
6 ~~Dollar (\$1.00) per copied page for a certified copy. However, if~~
7 ~~the request:~~

8 a. ~~is solely for commercial purpose, or~~

9 b. ~~would clearly cause excessive disruption of the~~
10 ~~essential functions of the public body,~~

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

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. the fees prescribed in paragraph 7 of this section.~~

11 7. Each copy that does not include a photograph or image shall
12 be fifty cents (\$0.50) for each page. Each printed photograph or
13 image shall be Fifteen Dollars (\$15.00). A video, photograph or
14 other image provided on a CD/DVD or other electronic media shall be
15 Twenty Dollars (\$20.00) per CD/DVD or other electronic media.
16 Certification or an affidavit by the public body authenticating the
17 record, if requested, shall be Fifteen Dollars (\$15.00). The public
18 body shall produce the records in digital form at the rate of thirty
19 cents (\$0.30) per page if:

20 a. the entire request can be reproduced from an

21 electronic record system,

22 b. the records are specifically requested to be delivered

23 in electronic format, and

24 c. the records can be delivered electronically.

1 No postage shall be charged for providing records
2 electronically, but a delivery charge not to exceed Five Dollars
3 (\$5.00) shall apply. No mailing fee shall be charged for copies
4 provided by facsimile. A public body may establish a lesser fee for
5 any record as provided in this paragraph by ordinance or resolution.
6 Any public body establishing fees under this paragraph shall post a
7 written fee schedule at its principal office or any other office
8 where its records may be requested in person and publish the fee
9 schedule on its website. Upon request by the public body, all fees
10 required pursuant to this paragraph shall be paid by the requesting
11 party prior to the release of the records;

12 8. A public body may charge a requestor for:

- 13 a. the storage media used including disk, tape, or other
14 format unless provided by the requestor,
15 b. any access or processing charges imposed upon the
16 public body because of the request including time
17 spent for redactions of exempt material,
18 c. any hardware or software specifically required to
19 fulfill the request and reproduce the record in
20 computer-readable format which would not otherwise
21 generally be required or used by the public body, and
22 d. the cost of labor directly attributable to fulfilling
23 the request;

1 9. A public body may charge an additional fee to recover the
2 direct cost of record search and processing if the records request
3 is solely for a private or commercial purpose. The fee charged by
4 the public body for a copy of a record in a digital format shall not
5 exceed the direct cost of making and processing the copy unless the
6 fee for the record is otherwise set by law. Publication in an
7 Oklahoma newspaper or broadcast by Oklahoma news media for news
8 purposes shall not constitute a resale or use of a record for
9 commercial purpose and charges for providing copies of electronic
10 data to Oklahoma news media for a news purpose shall not exceed the
11 fees as set forth in paragraph 7 of this section. In no event shall
12 a search fee be charged when the recorded time for search for
13 records and processing for release takes less than thirty (30)
14 minutes. No search fee shall be charged when the release is in the
15 public interest including, but not limited to, release to Oklahoma
16 print or broadcast news media, published scholars, published authors
17 and residents of this state seeking records for the purpose of
18 evaluation of governmental integrity and accountability. Search and
19 processing fees may be based on the salary and experience level of
20 personnel conducting the search and processing of the records
21 requested. A public body may seek judicial determination of the
22 extent of public interest in connection with a records request that
23 would exceed One Thousand (1,000) pages of printed information. No
24 search is required in circumstances in which the requesting party

1 has past-due copy or search fees or who fails to provide adequate
2 assurance of payment for a search and processing that would exceed
3 one (1) hour of search and processing time;

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

10 ~~6.~~ 11. A public body ~~must~~ shall provide prompt, reasonable
11 access to its records but may establish reasonable procedures which
12 protect the integrity and organization of its records and to prevent
13 excessive disruptions of its essential functions. A delay in
14 providing access to records shall be limited solely to the time
15 required for preparing the requested documents and the avoidance of
16 excessive disruptions of the public body's essential functions. In
17 no event may production of a current request for records be
18 unreasonably delayed until after completion of a prior records
19 request that will take substantially longer than the current
20 request. Any public body which makes the requested records
21 available on the Internet shall meet the obligation of providing
22 prompt, reasonable access to its records as required by this
23 paragraph; and

1 ~~7.~~ 12. A public body shall designate certain persons who are
2 authorized to release records of the public body for inspection,
3 copying, or mechanical reproduction. At least one person shall be
4 available at all times to release records during the regular
5 business hours of the public body.

6 SECTION 2. This act shall become effective November 1, 2022.

7
8 58-2-2749 TEK 1/13/2022 11:36:55 AM
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25