

1 STATE OF OKLAHOMA

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

3 POLICY COMMITTEE  
4 RECOMMENDATION

5 FOR

6 HOUSE BILL NO. 2650

7 By: Harris

8 POLICY COMMITTEE RECOMMENDATION

9 An Act relating to civil procedure; amending 12 O.S.  
10 2021, Section 3226.1, which relates to abusive  
11 discovery; providing for protective orders to prevent  
12 depositions of high-ranking officers; requiring  
13 certain proof; authorizing court to issue protective  
14 order to prevent deposition; authorizing court to  
15 modify or vacate order; and providing an effective  
16 date.

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

18 SECTION 1. AMENDATORY 12 O.S. 2021, Section 3226.1, is  
19 amended to read as follows:

20 Section 3226.1. A. ABUSIVE DISCOVERY. In addition to the  
21 protective orders that a court may issue pursuant to paragraph 1 of  
22 subsection C of Section 3226 of ~~Title 12 of the Oklahoma Statutes~~  
23 this title, a protective order may be issued by the court  
24 authorizing or denying discovery in the court in which the action is  
pending. A protective order may also be authorized on matters

1 relating to a deposition. The order may be issued upon a motion by  
2 a party or the person from whom discovery is sought. The motion  
3 shall be accompanied by a certification that the movant has in good  
4 faith conferred or attempted to confer, either in person or by  
5 telephone, with other affected parties in an effort to resolve the  
6 dispute without court action. Upon receipt by the court of the  
7 motion and certification, the court may enter the protective order  
8 authorizing or denying the discovery upon a finding that justice  
9 requires a party or person be protected from annoyance, harassment,  
10 embarrassment, oppression or undue delay, burden, or expense.

11 B. DEPOSITION OF HIGH-RANKING OFFICER. 1. The court shall  
12 find good cause to issue a protective order to prevent the  
13 deposition of an officer of an organization if the party or person  
14 seeking the protective order demonstrates that the officer sought to  
15 be deposed:

16 a. is a current or former high-ranking officer of a  
17 government entity or any other organization, public or  
18 private, that is large and complex,

19 b. has unique and extensive scheduling demands or  
20 responsibilities, and

21 c. lacks unique, personal knowledge of the issues being  
22 litigated.

23 The party or person seeking the protective order shall file a  
24 motion, accompanied by an affidavit or declaration of the officer,

1 establishing these requirements and identifying a person within the  
2 organization who has knowledge of the subject matter involved in the  
3 pending act.

4 2. If the party or person demonstrates the requirements in  
5 paragraph 1 of subsection B of this section, the court shall issue a  
6 protective order to prevent the deposition of that officer unless  
7 the opposing party seeking the deposition demonstrates that:

- 8 a. it has exhausted all other reasonable means of  
9 discovery,
- 10 b. such discovery is inadequate, and
- 11 c. the officer has unique, personal knowledge of  
12 discoverable information.

13 3. To the extent that the party or person seeking the  
14 protective order shows that the officer lacks unique, personal  
15 knowledge of some, but not all, matters relevant to the subject  
16 matter involved in the pending action, the court may limit the scope  
17 of the deposition accordingly.

18 4. The court may vacate or modify the protective order if,  
19 after additional discovery, the party seeking the deposition can  
20 meet its burden under this subsection.

21 C. AWARD OF EXPENSES OF MOTION. If the motion is granted, the  
22 court may, after opportunity for hearing, require the party or  
23 person whose conduct necessitated the motion or the party or  
24 attorney advising such conduct or both of them to pay to the moving

1 party the reasonable expenses incurred in obtaining the order,  
2 including attorney fees, unless the court finds that the opposition  
3 to the motion was substantially justified or that other  
4 circumstances make an award of expenses unjust.

5 If the motion is denied, the court may, after opportunity for  
6 hearing, require the moving party or the attorney advising the  
7 motion or both of them to pay to the party or deponent who opposed  
8 the motion the reasonable expenses incurred in opposing the motion,  
9 including attorney fees, unless the court finds that the making of  
10 the motion was substantially justified or that other circumstances  
11 make an award of expenses unjust.

12 If the motion is granted in part and denied in part, the court  
13 may apportion the reasonable expenses incurred in relation to the  
14 motion among the parties and persons in a just manner.

15 SECTION 2. This act shall become effective November 1, 2025.

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17 60-1-12826 GRS 02/20/25

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