

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 300 By: Daniels of the Senate
3 and
4 O'Donnell of the House
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.

12 AMENDMENT NO. 1. Pages 1-5, delete Section 1 and Section 2 in their
13 entirety and insert the following:

14 "SECTION 1. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 6406 of Title 63, unless there
16 is created a duplication in numbering, reads as follows:

17 A. This act shall be known and may be cited as the "COVID-19
18 Public Health Emergency Limited Liability Act".

19 B. For purposes of the COVID-19 Public Health Emergency Limited
20 Liability Act:

21 1. "COVID-19 public health emergency" means any emergency
22 declared by the Governor of Oklahoma related to COVID-19, including
23 but not limited to the emergency declared by the Governor by
24 Executive Order 2020-07, and any amendments thereto, under the

1 Oklahoma Emergency Management Act of 2003, Section 683.1 et seq. of
2 Title 63 of the Oklahoma Statutes, beginning on March 15, 2020, and
3 the health emergency declared by the Governor by Executive Order
4 2020-13, and any amendments thereto, under the Catastrophic Health
5 Emergency Powers Act, Section 6101 et seq. of Title 63 of the
6 Oklahoma Statutes, beginning on April 8, 2020;

7 2. "Health care facility" and "health care provider" shall have
8 the same meaning as such terms are defined as provided in Section
9 6104 of Title 63 of the Oklahoma Statutes; and

10 3. "Health care services" means any services provided by a
11 health care facility, health care provider, or by an individual
12 working under the supervision of a health care facility or provider,
13 that relate to the diagnosis, assessment, prevention, treatment,
14 aid, shelter, assistance, or care of illness, disease, injury, or
15 condition.

16 C. A health care facility or health care provider shall be
17 immune from civil liability for any loss or harm to a person with a
18 suspected or confirmed diagnosis of COVID-19 caused by an act or
19 omission by the facility or provider that occurs during the COVID-19
20 public health emergency, if:

21 1. The act or omission occurred in the course of arranging for
22 or providing COVID-19 health care services for the treatment of the
23 person who was impacted by the decisions, activities or staffing of,
24 or the availability or capacity of space or equipment by, the health

1 care facility or provider in response to or as a result of the
2 COVID-19 public health emergency; and

3 2. The act or omission was not the result of gross negligence
4 or willful or wanton misconduct of the health care facility or
5 health care provider rendering the health care services.

6 D. In no event shall this act be construed to grant immunity
7 from civil liability for an act or omission in the provision of
8 health care services to a person who did not have a suspected or
9 confirmed diagnosis of COVID-19 at the time of the services.

10 E. This act shall apply to any civil action filed on or after
11 the effective date of this act. The provisions of this act shall be
12 in effect until October 31, 2020, or until such time as the Governor
13 affirmatively concludes the emergency declarations specified in
14 paragraph 1 of subsection B of this section, whichever is later.

15 SECTION 2. It being immediately necessary for the preservation
16 of the public peace, health or safety, an emergency is hereby
17 declared to exist, by reason whereof this act shall take effect and
18 be in full force from and after its passage and approval."

19

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and amend title to conform

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1 Passed the House of Representatives the 4th day of May, 2020.

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4 _____
5 Presiding Officer of the House of
6 Representatives

7 Passed the Senate the ____ day of _____, 2020.

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11 Presiding Officer of the Senate
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1 ENGROSSED SENATE
2 BILL NO. 300

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6 An Act relating to the Oklahoma Discovery Code;
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9 2018, Section 3234), which relates to production of
10 documents; imposing limitation upon requests to
11 produce certain documents or other items;
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13 production; and providing an effective date.

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

15 SECTION 3. 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
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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 4. This act shall become effective November 1, 2019.

7 Passed the Senate the 4th day of March, 2019.

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9 _____
10 Presiding Officer of the Senate

11 Passed the House of Representatives the ____ day of _____,
12 2019.

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14 _____
15 Presiding Officer of the House
16 of Representatives