

SENATE BILL No. 331

Committee on Judiciary

1-28

1 AN ACT concerning the Kansas open records act; relating to exceptions to
2 disclosure; public websites that identify home addresses or home
3 ownership; identifying information of employees of the department of
4 corrections, local correctional officers or local detention officers;
5 amending K.S.A. 2019 Supp. 45-221 and repealing the existing section.
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 2019 Supp. 45-221 is hereby amended to read as
9 follows: 45-221. (a) Except to the extent disclosure is otherwise required
10 by law, a public agency shall not be required to disclose:

11 (1) Records the disclosure of which is specifically prohibited or
12 restricted by federal law, state statute or rule of the Kansas supreme court
13 or rule of the senate committee on confirmation oversight relating to
14 information submitted to the committee pursuant to K.S.A. 75-4315d, and
15 amendments thereto, or the disclosure of which is prohibited or restricted
16 pursuant to specific authorization of federal law, state statute or rule of
17 Kansas supreme court or rule of the senate committee on confirmation
18 oversight relating to information submitted to the committee pursuant to
19 K.S.A. 75-4315d, and amendments thereto, to restrict or prohibit
20 disclosure.

21 (2) Records ~~which~~ *that* are privileged under the rules of evidence,
22 unless the holder of the privilege consents to the disclosure.

23 (3) Medical, psychiatric, psychological or alcoholism or drug
24 dependency treatment records ~~which pertain~~ *pertaining* to identifiable
25 patients.

26 (4) Personnel records, performance ratings or individually identifiable
27 records pertaining to employees or applicants for employment, except that
28 this exemption shall not apply to the names, positions, salaries or actual
29 compensation employment contracts or employment-related contracts or
30 agreements and lengths of service of officers and employees of public
31 agencies once they are employed as such.

32 (5) Information ~~which~~ *that* would reveal the identity of any
33 undercover agent or any informant reporting a specific violation of law.

34 (6) Letters of reference or recommendation pertaining to the character
35 or qualifications of an identifiable individual, except documents relating to
36 the appointment of persons to fill a vacancy in an elected office.

1 (7) Library, archive and museum materials contributed by private
2 persons, to the extent of any limitations imposed as conditions of the
3 contribution.

4 (8) Information~~which~~ *that* would reveal the identity of an individual
5 who lawfully makes a donation to a public agency, if anonymity of the
6 donor is a condition of the donation, except if the donation is intended for
7 or restricted to providing remuneration or personal tangible benefit to a
8 named public officer or employee.

9 (9) Testing and examination materials, before the test or examination
10 is given or if it is to be given again, or records of individual test or
11 examination scores, other than records~~which~~ *that* show only passage or
12 failure and not specific scores.

13 (10) Criminal investigation records, except as provided herein. The
14 district court, in an action brought pursuant to K.S.A. 45-222, and
15 amendments thereto, may order disclosure of such records, subject to such
16 conditions as the court may impose, if the court finds that disclosure:

17 (A) Is in the public interest;

18 (B) would not interfere with any prospective law enforcement action,
19 criminal investigation or prosecution;

20 (C) would not reveal the identity of any confidential source or
21 undercover agent;

22 (D) would not reveal confidential investigative techniques or
23 procedures not known to the general public;

24 (E) would not endanger the life or physical safety of any person; and

25 (F) would not reveal the name, address, phone number or any other
26 information~~which~~ *that* specifically and individually identifies the victim
27 of any sexual offense *described* in article 35 of chapter 21 of the Kansas
28 Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the
29 Kansas Statutes Annotated, and amendments thereto.

30 If a public record is discretionarily closed by a public agency pursuant
31 to this subsection, the record custodian, upon request, shall provide a
32 written citation to the specific provisions of paragraphs (A) through (F)
33 that necessitate closure of that public record.

34 (11) Records of agencies involved in administrative adjudication or
35 civil litigation, compiled in the process of detecting or investigating
36 violations of civil law or administrative rules and regulations, if disclosure
37 would interfere with a prospective administrative adjudication or civil
38 litigation or reveal the identity of a confidential source or undercover
39 agent.

40 (12) Records of emergency or security information or procedures of a
41 public agency, or plans, drawings, specifications or related information for
42 any building or facility~~which~~ *that* is used for purposes requiring security
43 measures in or around the building or facility or~~which~~ is used for the

1 generation or transmission of power, water, fuels or communications, if
2 disclosure would jeopardize security of the public agency, building or
3 facility.

4 (13) The contents of appraisals or engineering or feasibility estimates
5 or evaluations made by or for a public agency relative to the acquisition of
6 property, prior to the award of formal contracts therefor.

7 (14) Correspondence between a public agency and a private
8 individual, other than correspondence ~~which~~ *that* is intended to give notice
9 of an action, policy or determination relating to any regulatory, supervisory
10 or enforcement responsibility of the public agency or ~~which~~ is widely
11 distributed to the public by a public agency and is not specifically in
12 response to communications from such a private individual.

13 (15) Records pertaining to employer-employee negotiations, if
14 disclosure would reveal information discussed in a lawful executive
15 session under K.S.A. 75-4319, and amendments thereto.

16 (16) Software programs for electronic data processing and
17 documentation thereof, but each public agency shall maintain a register,
18 open to the public, that describes:

19 (A) The information ~~which~~ the agency maintains on computer
20 facilities; and

21 (B) the form in which the information can be made available using
22 existing computer programs.

23 (17) Applications, financial statements and other information
24 submitted in connection with applications for student financial assistance
25 where financial need is a consideration for the award.

26 (18) Plans, designs, drawings or specifications ~~which~~ *that* are
27 prepared by a person other than an employee of a public agency or records
28 ~~which~~ *that* are the property of a private person.

29 (19) Well samples, logs or surveys ~~which~~ *that* the state corporation
30 commission requires to be filed by persons who have drilled or caused to
31 be drilled, or are drilling or causing to be drilled, holes for the purpose of
32 discovery or production of oil or gas, to the extent that disclosure is
33 limited by rules and regulations of the state corporation commission.

34 (20) Notes, preliminary drafts, research data in the process of
35 analysis, unfunded grant proposals, memoranda, recommendations or
36 other records in which opinions are expressed or policies or actions are
37 proposed, except that this exemption shall not apply when such records are
38 publicly cited or identified in an open meeting or in an agenda of an open
39 meeting.

40 (21) Records of a public agency having legislative powers, ~~which~~
41 ~~records~~ ~~pertain~~ *pertaining* to proposed legislation or amendments to
42 proposed legislation, except that this exemption shall not apply when such
43 records are:

1 (A) Publicly cited or identified in an open meeting or in an agenda of
2 an open meeting; or

3 (B) distributed to a majority of a quorum of any body ~~which~~ *that* has
4 authority to take action or make recommendations to the public agency
5 with regard to the matters to which such records pertain.

6 (22) Records of a public agency having legislative powers, ~~which~~
7 ~~records pertain~~ *pertaining* to research prepared for one or more members
8 of such agency, except that this exemption shall not apply when such
9 records are:

10 (A) Publicly cited or identified in an open meeting or in an agenda of
11 an open meeting; or

12 (B) distributed to a majority of a quorum of any body ~~which~~ *that* has
13 authority to take action or make recommendations to the public agency
14 with regard to the matters to which such records pertain.

15 (23) Library patron and circulation records ~~which pertain~~ *pertaining*
16 to identifiable individuals.

17 (24) Records ~~which that~~ are compiled for census or research purposes
18 and ~~which~~ pertain to identifiable individuals.

19 (25) Records ~~which that~~ represent and constitute the work product of
20 an attorney.

21 (26) Records of a utility or other public service pertaining to
22 individually identifiable residential customers of the utility or service.

23 (27) Specifications for competitive bidding, until the specifications
24 are officially approved by the public agency.

25 (28) Sealed bids and related documents, until a bid is accepted or all
26 bids rejected.

27 (29) Correctional records pertaining to an identifiable inmate or
28 release, except that:

29 (A) The name; photograph and other identifying information;
30 sentence data; parole eligibility date; custody or supervision level;
31 disciplinary record; supervision violations; conditions of supervision,
32 excluding requirements pertaining to mental health or substance abuse
33 counseling; location of facility where incarcerated or location of parole
34 office maintaining supervision and address of a releasee whose crime was
35 committed after the effective date of this act shall be subject to disclosure
36 to any person other than another inmate or releasee, except that the
37 disclosure of the location of an inmate transferred to another state pursuant
38 to the interstate corrections compact shall be at the discretion of the
39 secretary of corrections;

40 (B) the attorney general, law enforcement agencies, counsel for the
41 inmate to whom the record pertains and any county or district attorney
42 shall have access to correctional records to the extent otherwise permitted
43 by law;

1 (C) the information provided to the law enforcement agency pursuant
2 to the sex offender registration act, K.S.A. 22-4901 et seq., and
3 amendments thereto, shall be subject to disclosure to any person, except
4 that the name, address, telephone number or any other information ~~which~~
5 *that* specifically and individually identifies the victim of any offender
6 required to register as provided by the Kansas offender registration act,
7 K.S.A. 22-4901 et seq., and amendments thereto, shall not be disclosed;
8 and

9 (D) records of the department of corrections regarding the financial
10 assets of an offender in the custody of the secretary of corrections shall be
11 subject to disclosure to the victim, or such victim's family, of the crime for
12 which the inmate is in custody as set forth in an order of restitution by the
13 sentencing court.

14 (30) Public records containing information of a personal nature where
15 the public disclosure thereof would constitute a clearly unwarranted
16 invasion of personal privacy.

17 (31) Public records pertaining to prospective location of a business or
18 industry where no previous public disclosure has been made of the
19 business' or industry's interest in locating in, relocating within or
20 expanding within the state. This exception shall not include those records
21 pertaining to application of agencies for permits or licenses necessary to
22 do business or to expand business operations within this state, except as
23 otherwise provided by law.

24 (32) Engineering and architectural estimates made by or for any
25 public agency relative to public improvements.

26 (33) Financial information submitted by contractors in qualification
27 statements to any public agency.

28 (34) Records involved in the obtaining and processing of intellectual
29 property rights that are expected to be, wholly or partially vested in or
30 owned by a state educational institution, as defined in K.S.A. 76-711, and
31 amendments thereto, or an assignee of the institution organized and
32 existing for the benefit of the institution.

33 (35) Any report or record ~~which~~ *that* is made pursuant to K.S.A. 65-
34 4922, 65-4923 or 65-4924, and amendments thereto, and ~~which~~ is
35 privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments
36 thereto.

37 (36) Information ~~which~~ *that* would reveal the precise location of an
38 archeological site.

39 (37) Any financial data or traffic information from a railroad
40 company, to a public agency, concerning the sale, lease or rehabilitation of
41 the railroad's property in Kansas.

42 (38) Risk-based capital reports, risk-based capital plans and
43 corrective orders including the working papers and the results of any

1 analysis filed with the commissioner of insurance in accordance with
2 K.S.A. 40-2c20 and 40-2d20, and amendments thereto.

3 (39) Memoranda and related materials required to be used to support
4 the annual actuarial opinions submitted pursuant to K.S.A. 40-409(b), and
5 amendments thereto.

6 (40) Disclosure reports filed with the commissioner of insurance
7 under K.S.A. 40-2,156(a), and amendments thereto.

8 (41) All financial analysis ratios and examination synopses
9 concerning insurance companies that are submitted to the commissioner by
10 the national association of insurance commissioners' insurance regulatory
11 information system.

12 (42) Any records the disclosure of which is restricted or prohibited by
13 a tribal-state gaming compact.

14 (43) Market research, market plans, business plans and the terms and
15 conditions of managed care or other third-party contracts, developed or
16 entered into by the university of Kansas medical center in the operation
17 and management of the university hospital ~~which~~ that the chancellor of the
18 university of Kansas or the chancellor's designee determines would give an
19 unfair advantage to competitors of the university of Kansas medical center.

20 (44) The amount of franchise tax paid to the secretary of revenue or
21 the secretary of state by domestic corporations, foreign corporations,
22 domestic limited liability companies, foreign limited liability companies,
23 domestic limited partnership, foreign limited partnership, domestic limited
24 liability partnerships and foreign limited liability partnerships.

25 (45) Records, other than criminal investigation records, the disclosure
26 of which would pose a substantial likelihood of revealing security
27 measures that protect: (A) Systems, facilities or equipment used in the
28 production, transmission or distribution of energy, water or
29 communications services; (B) transportation and sewer or wastewater
30 treatment systems, facilities or equipment; or (C) private property or
31 persons, if the records are submitted to the agency. For purposes of this
32 paragraph, security means measures that protect against criminal acts
33 intended to intimidate or coerce the civilian population, influence
34 government policy by intimidation or coercion or to affect the operation of
35 government by disruption of public services, mass destruction,
36 assassination or kidnapping. Security measures include, but are not limited
37 to, intelligence information, tactical plans, resource deployment and
38 vulnerability assessments.

39 (46) Any information or material received by the register of deeds of
40 a county from military discharge papers, DD Form 214. Such papers shall
41 be disclosed: To the military dischargee; to such dischargee's immediate
42 family members and lineal descendants; to such dischargee's heirs, agents
43 or assigns; to the licensed funeral director who has custody of the body of

1 the deceased dischargee; when required by a department or agency of the
2 federal or state government or a political subdivision thereof; when the
3 form is required to perfect the claim of military service or honorable
4 discharge or a claim of a dependent of the dischargee; and upon the written
5 approval of the commissioner of veterans affairs, to a person conducting
6 research.

7 (47) Information that would reveal the location of a shelter or a
8 safehouse or similar place where persons are provided protection from
9 abuse or the name, address, location or other contact information of
10 alleged victims of stalking, domestic violence or sexual assault.

11 (48) Policy information provided by an insurance carrier in
12 accordance with K.S.A. 44-532(h)(1), and amendments thereto. This
13 exemption shall not be construed to preclude access to an individual
14 employer's record for the purpose of verification of insurance coverage or
15 to the department of labor for their business purposes.

16 (49) An individual's e-mail address, cell phone number and other
17 contact information ~~which~~ *that* has been given to the public agency for the
18 purpose of public agency notifications or communications ~~which~~ *that* are
19 widely distributed to the public.

20 (50) Information provided by providers to the local collection point
21 administrator or to the 911 coordinating council pursuant to the Kansas
22 911 act, ~~and amendments thereto~~, upon request of the party submitting
23 such records.

24 (51) Records of a public agency on a public website ~~which~~ *that* are
25 searchable by a keyword search and identify the home address or home
26 ownership of a law enforcement officer as defined in K.S.A. 2019 Supp.
27 21-5111, and amendments thereto, parole officer, probation officer, court
28 services officer ~~or~~, community correctional services officer, *employee of*
29 *the department of corrections, local correctional officer or local detention*
30 *officer*. Such ~~individual officer~~ *person* shall file with the custodian of such
31 record a request to have such ~~officer's~~ *person's* identifying information
32 restricted from public access on such public website. Within 10 business
33 days of receipt of such requests, the public agency shall restrict such
34 ~~officer's~~ *person's* identifying information from such public access. Such
35 restriction shall expire after five years and such ~~officer~~ *person* may file
36 with the custodian of such record a new request for restriction at any time.

37 (52) Records of a public agency on a public website ~~which~~ *that* are
38 searchable by a keyword search and identify the home address or home
39 ownership of a federal judge, a justice of the supreme court, a judge of the
40 court of appeals, a district judge, a district magistrate judge, a municipal
41 judge, the United States attorney for the district of Kansas, an assistant
42 United States attorney, a special assistant United States attorney, the
43 attorney general, an assistant attorney general, a special assistant attorney

1 general, a county attorney, an assistant county attorney, a special assistant
2 county attorney, a district attorney, an assistant district attorney, a special
3 assistant district attorney, a city attorney, an assistant city attorney or a
4 special assistant city attorney. Such person shall file with the custodian of
5 such record a request to have such person's identifying information
6 restricted from public access on such public website. Within 10 business
7 days of receipt of such requests, the public agency shall restrict such
8 person's identifying information from such public access. Such restriction
9 shall expire after five years and such person may file with the custodian of
10 such record a new request for restriction at any time.

11 (53) Records of a public agency that would disclose the name, home
12 address, zip code, e-mail address, phone number or cell phone number or
13 other contact information for any person licensed to carry concealed
14 handguns or of any person who enrolled in or completed any weapons
15 training in order to be licensed or has made application for such license
16 under the personal and family protection act, K.S.A. 75-7c01 et seq., and
17 amendments thereto, shall not be disclosed unless otherwise required by
18 law.

19 (54) Records of a utility concerning information about cyber security
20 threats, attacks or general attempts to attack utility operations provided to
21 law enforcement agencies, the state corporation commission, the federal
22 energy regulatory commission, the department of energy, the southwest
23 power pool, the North American electric reliability corporation, the federal
24 communications commission or any other federal, state or regional
25 organization that has a responsibility for the safeguarding of
26 telecommunications, electric, potable water, waste water disposal or
27 treatment, motor fuel or natural gas energy supply systems.

28 (55) Records of a public agency containing information or reports
29 obtained and prepared by the office of the state bank commissioner in the
30 course of licensing or examining a person engaged in money transmission
31 business pursuant to K.S.A. 9-508 et seq., and amendments thereto, shall
32 not be disclosed except pursuant to K.S.A. 9-513c, and amendments
33 thereto, or unless otherwise required by law.

34 (b) Except to the extent disclosure is otherwise required by law or as
35 appropriate during the course of an administrative proceeding or on appeal
36 from agency action, a public agency or officer shall not disclose financial
37 information of a taxpayer ~~which~~ that may be required or requested by a
38 county appraiser or the director of property valuation to assist in the
39 determination of the value of the taxpayer's property for ad valorem
40 taxation purposes; or any financial information of a personal nature
41 required or requested by a public agency or officer, including a name, job
42 description or title revealing the salary or other compensation of officers,
43 employees or applicants for employment with a firm, corporation or

1 agency, except a public agency. Nothing contained herein shall be
2 construed to prohibit the publication of statistics, so classified as to
3 prevent identification of particular reports or returns and the items thereof.

4 (c) As used in this section, the term "cited or identified" ~~shall~~ *does* not
5 include a request to an employee of a public agency that a document be
6 prepared.

7 (d) If a public record contains material ~~which~~ *that* is not subject to
8 disclosure pursuant to this act, the public agency shall separate or delete
9 such material and make available to the requester that material in the
10 public record ~~which~~ *that* is subject to disclosure pursuant to this act. If a
11 public record is not subject to disclosure because it pertains to an
12 identifiable individual, the public agency shall delete the identifying
13 portions of the record and make available to the requester any remaining
14 portions ~~which~~ *that* are subject to disclosure pursuant to this act, unless the
15 request is for a record pertaining to a specific individual or to such a
16 limited group of individuals that the individuals' identities are reasonably
17 ascertainable, the public agency shall not be required to disclose those
18 portions of the record ~~which pertain~~ *pertaining* to such individual or
19 individuals.

20 (e) The provisions of this section shall not be construed to exempt
21 from public disclosure statistical information not descriptive of any
22 identifiable person.

23 (f) Notwithstanding the provisions of subsection (a), any public
24 record ~~which~~ *that* has been in existence more than 70 years shall be open
25 for inspection by any person unless disclosure of the record is specifically
26 prohibited or restricted by federal law, state statute or rule of the Kansas
27 supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and
28 amendments thereto.

29 (g) Any confidential records or information relating to security
30 measures provided or received under the provisions of subsection (a)(45)
31 shall not be subject to subpoena, discovery or other demand in any
32 administrative, criminal or civil action.

33 Sec. 2. K.S.A. 2019 Supp. 45-221 is hereby repealed.

34 Sec. 3. This act shall take effect and be in force from and after its
35 publication in the statute book.