

Session of 2016

SENATE BILL No. 361

By Committee on Judiciary

1-25

AN ACT concerning the open records act; relating to definitions; public agency and public record; amending K.S.A. 2015 Supp. 45-217 and repealing the existing section.

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

Section 1. K.S.A. 2015 Supp. 45-217 is hereby amended to read as follows: 45-217. As used in the open records act, unless the context otherwise requires:

(a) "Business day" means any day other than a Saturday, Sunday or day designated as a holiday by the congress of the United States, by the legislature or governor of this state or by the respective political subdivision of this state.

(b) "Clearly unwarranted invasion of personal privacy" means revealing information that would be highly offensive to a reasonable person, including information that may pose a risk to a person or property and is not of legitimate concern to the public.

(c) "Criminal investigation records" means records of an investigatory agency or criminal justice agency as defined by K.S.A. 22-4701, and amendments thereto, compiled in the process of preventing, detecting or investigating violations of criminal law, but does not include police blotter entries, court records, rosters of inmates of jails or other correctional or detention facilities or records pertaining to violations of any traffic law other than vehicular homicide as defined by K.S.A. 21-3405, prior to its repeal, or K.S.A. 2015 Supp. 21-5406, and amendments thereto.

(d) "Custodian" means the official custodian or any person designated by the official custodian to carry out the duties of custodian of this act.

(e) "Official custodian" means any officer or employee of a public agency who is responsible for the maintenance of public records, regardless of whether such records are in the officer's or employee's actual personal custody and control.

(f) (1) "Public agency" means the state or any political or taxing subdivision of the state or any office, ~~officer~~, agency or instrumentality thereof, or any other entity receiving or expending and supported in whole or in part by the public funds appropriated by the state or by public funds of any political or taxing subdivision of the state.

(2) "Public agency" shall not include:

(A) Any entity solely by reason of payment from public funds for property, goods or services of such entity; *or* (B) any municipal judge, judge of the district court, judge of the court of appeals or justice of the supreme court; ~~or (C) any officer or employee of the state or political or taxing subdivision of the state if the state or political or taxing subdivision does not provide the officer or employee with an office which is open to the public at least 35 hours a week.~~

(g) (1) "Public record" means any recorded information, regardless of form ~~or~~, characteristics *or location*, which is made, maintained or kept by or is in the possession of:

(A) Any public agency ~~including, but not limited to, an agreement in settlement of litigation involving the Kansas public employees retirement system and the investment of moneys of the fund; or~~

~~(B) any officer or employee of a public agency in connection with the transaction of public or official business or bearing upon the public or official activities and functions of any public agency.~~

(2) "Public record" shall include, but not be limited to, an agreement in settlement of litigation involving the Kansas public employees retirement system and the investment of moneys of the fund.

(3) "Public record" shall not include:

(A) Records which are owned by a private person or entity and are not related to functions, activities, programs or operations funded by public funds ~~or~~.

(B) records which are made, maintained or kept by an individual who is a member of the legislature or of the governing body of any political or taxing subdivision of the state:

~~(3) "Public record" shall not include; or~~

(C) records of employers related to the employer's individually identifiable contributions made on behalf of employees for workers compensation, social security, unemployment insurance or retirement. The provisions of this subsection shall not apply to records of employers of lump-sum payments for contributions as described in this subsection paid for any group, division or section of an agency.

(h) "Undercover agent" means an employee of a public agency responsible for criminal law enforcement who is engaged in the detection or investigation of violations of criminal law in a capacity where such employee's identity or employment by the public agency is secret.

Sec. 2. K.S.A. 2015 Supp. 45-217 is hereby repealed.

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

pursuant to the officer's or employee's official duties and which is related to the functions, activities, programs or operations

Notwithstanding the provisions of subsection (g)(1),

. As used in this subparagraph, "private person" shall not include an officer or employee of a public agency who is acting pursuant to the officer's or employee's official duties

subparagraph

subparagraph