

## HOUSE BILL No. 3005

By Committee on Federal and State Affairs

2-27

---

AN ACT amending the open records act; relating to application to certain records; amending K.S.A. 45-217 and repealing the existing section.

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

Section 1. K.S.A. 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) "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 and amendments thereto.

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

(d) "*Electronic mail*" means an electronic message which is transmitted between two or more computers or electronic terminals, whether or not the message is converted to hard copy format after receipt and whether or not the message is viewed upon transmission or stored for later retrieval. "*Electronic mail*" includes electronic messages which are transmitted through a local, regional or global computer network.

(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

1 funds of any political or taxing subdivision of the state.

2 (2) "Public agency" shall not include:

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

10 ~~(f)~~ (g) (1) "Public record" means any recorded information, regard-  
11 less of form or characteristics, which is made, maintained or kept by or  
12 is in the possession of any public agency including, but not limited to, an  
13 agreement in settlement of litigation involving the Kansas public em-  
14 ployees retirement system and the investment of moneys of the fund.

15 (2) "Public record" shall not include: (A) Records which are owned  
16 by a private person or entity and are not related to functions, activities,  
17 programs or operations funded by public funds ~~or~~; (B) records which are  
18 made, maintained or kept by an individual who is a member of the leg-  
19 islature ~~or of~~; *or (C) records which are made, maintained or kept by an*  
20 *individual who is a member of the governing body of any political or taxing*  
21 *subdivision of the state, except that any correspondence, including elec-*  
22 *tronic mail, made, maintained or kept by an individual member of a gov-*  
23 *erning body of a political or taxing subdivision is a public record if such*  
24 *correspondence is between members of such governing body and relates*  
25 *to the functions of such governing body.*

26 (3) "Public record" shall not include records of employers related to  
27 the employer's individually identifiable contributions made on behalf of  
28 employees for workers compensation, social security, unemployment in-  
29 surance or retirement. The provisions of this subsection shall not apply  
30 to records of employers of lump-sum payments for contributions as de-  
31 scribed in this subsection paid for any group, division or section of an  
32 agency.

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

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

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

40

41

42

43