

As Amended by House Committee

Session of 2004

HOUSE BILL No. 2601

By Representative Loyd

1-27

10 AN ACT concerning the Kansas open records act; pertaining to attorney  
11 fees and costs; amending K.S.A. 45-222 and repealing the existing  
12 section.

13  
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 45-222 is hereby amended to read as follows: 45-  
16 222. (a) The district court of any county in which public records are  
17 located shall have jurisdiction to enforce the purposes of this act with  
18 respect to such records, by injunction, mandamus or other appropriate  
19 order, in an action brought by any person, the attorney general or a county  
20 or district attorney.

21 (b) In any action hereunder, the court shall determine the matter *de*  
22 *novo*. The court on its own motion, or on motion of either party, may  
23 view the records in controversy *in camera* before reaching a decision.

24 (c) In any action hereunder, the court shall award ~~attorney fees costs~~  
25 *and a reasonable sum as an attorney's fee for services rendered in such*  
26 *action, including proceedings on appeal, to be recovered and collected as*  
27 *part of the costs* to the plaintiff if the court finds that the agency's denial  
28 of access to the public record was not in good faith ~~and~~ *or* without a  
29 reasonable basis in fact or law. The award shall be assessed against the  
30 public agency that the court determines to be responsible for the  
31 violation.

32 (d) In any action hereunder in which the defendant is the prevailing  
33 party, the court shall award to the defendant ~~attorney fees costs and a~~  
34 *reasonable sum as an attorney's fee for services rendered in such action,*  
35 *including proceedings on appeal, to be recovered and collected as part of*  
36 *the costs* if the court finds that the plaintiff maintained the action not in  
37 good faith ~~and or~~ without a reasonable basis in fact or law.

38 (e) Except as otherwise provided by law, proceedings arising under  
39 this section shall be assigned for hearing and trial at the earliest practi-  
40 cable date.

41 Sec. 2. K.S.A. 45-222 is hereby repealed.

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