

Approved 4/26/85
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Senator Edward F. Reilly, Jr. at
Chairperson

11:00 a.m. ~~xxx~~ on February 25, 1985 in room 254-E of the Capitol.

All members were present ~~except~~ xxx

Committee staff present:

Fred Carman, Assistant Revisor of Statutes
Russell Mills, Legislative Research
Emalene Correll, Legislative Research
June Windscheffel, Committee Secretary

Conferees appearing before the committee:

Jim Kaup, Staff Attorney, League of Kansas Municipalities, Topeka, Kansas
Lynn A. Goodell, Director of the Community Development Department for
the City of Lawrence, Kansas
Bill Ramsey, City Hall, City of Olathe, Kansas
Dennis Shockley, City Hall, City of Kansas City, Kansas

SB147 - Persons subject to the law enforcement training act.

The Chairman referred the Committee to SB147, and he introduced Jim Kaup, Staff Attorney for the League of Kansas Municipalities. Kaup's written statement is Attachment #1. He stated that the primary purpose of SB147 is to remove any question that certain types of municipal officers and employees are not subject to the requirements of the law enforcement training act.

The next proponent of SB147 was Lynn A. Goodell, Director of the Community Development Department for the City of Lawrence. He said the bill would require completion of 80 to 320 hours of training for law enforcement officers at an approved training center, and that the training would be developed specifically for officers who engage in serving warrants and who are authorized to carry firearms. His statement is Attachment #2.

Bill Ramsey, from the City of Olathe, said they have just recently started letting building inspectors serve. They have had a problem in that when an inspector would go out and make an inspection, and after repeated attempts of trying to get corrections made the city would have to go back there through the city prosecutor to have a notice. They would make these through registered mail with receipt requested to the builder. Most of the time the builders refused to pick up their mail, and the city's only way around this was through an administrative procedure to allow the building inspector to allow a notice to appear on the spot. They hope the Legislature will be able to provide some relief on this so they can clear this up without sending people to 40-hour schooling just to deliver a notice to appear in municipal court. The people who serve these notices have training strictly in the building trades. As far as knowing where someone is in violation of a building there is no problem.

Dennis Shockley, of Federal and State Affairs of Kansas City, Kansas, said the reason he is here is because of the Attorney General's opinion of June 1984. He said that as far as he knows Kansas City, Kansas, is the only city that has "warrant officers." He distributed their definition of Warrant Officer, Attachment #3. He said he supports this bill. The one saving grace in the Attorney General opinion they now have is that if they mail these warrants then they are considered duly served. A copy of the Attorney General Opinion No. 84-62, is Attachment #4.

When questioned, Staff said that the amendment that is being talked about on Page 3 is going to say that they have a primary responsibility of serving warrants and have authority to make arrests and carry firearms. If that authority is changed and they are not given authority to carry firearms, how many distinctions are going to have to be made. He questioned if all these warrant officers are going to be able to carry firearms and make arrests.

The Chairman stated that in view of the testimony he will appoint a Subcommittee

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS,
room 254-E, Statehouse, at 11:00 a.m./~~p.m.~~ on February 25, 1985.

composed of Senators Arasmith, Walker and Strick. He said they will need to visit with the law enforcement training people and try to coordinate their efforts. This concludes the hearings on SB147.

The Chairman introduced Terry Harmon, Assistant State Archivist, of the Kansas State Historical Society. He said that for a number of years the Kansas State Historical Society has been consulting with officials of the Department of Health and Environment in an effort to answer many questions and resolve problems related to use of vital statistic records for research purposes. His statement is Attachment #5, along with proposed legislation, 5RS0999, Attachment #6.

Senator Vidricksen moved the introduction of the proposed legislation, 5RS0999. 2d by Senator Hoferer. Motion passed.

The Minutes of February 1 and February 20, 1985, were distributed for the Committee's approval. Senator Arasmith moved the Minutes be approved. 2d by Senator Strick. Motion carried.

The meeting was adjourned.

2/25/85
Attachment #1



League of Kansas Municipalities

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL / 112 WEST SEVENTH ST., TOPEKA, KANSAS 66603 / AREA 913-354-9565

TO: Members of Senate Federal and State Affairs Committee
FROM: Jim Kaup, Staff Attorney, League of Kansas Municipalities
RE: SB 147 Amending the Law Enforcement Training Act
DATE: February 25, 1985

The primary purpose of SB 147 is to remove any question that certain types of municipal officers and employees are not subject to the requirements of the law enforcement training act. Many cities employ persons whose duties are law enforcement related, but do not involve crime detection or crime prevention. The League does not believe it was the intent of the Legislature to mandate the extensive, and expensive, educational requirements of the law enforcement training act upon such persons as animal control officers, building and health code inspectors, parking control officers and zoning administrators.

In a June, 1984 opinion (A.G. No. 84-62) Attorney General Stephan stated that parking service officers at the University of Kansas, who engage in traffic control as a part of their duties, are within the definition of law enforcement officers under K.S.A. 74-5602 (e) and due to such, that they are subject to the training provisions of the law enforcement training center act (74-5601 et seq.). The Attorney General said that such officers, if employed for 1,000 or more hours per year, are considered full-time employees for the purposes of the act, despite the fact that they perform traffic control duties only as an incidental part of their overall duties. This opinion has raised concerns regarding the broad wording, and interpretation, of the terms "police officer" and "law enforcement officer" as used in the training act. The amended language found at lines 61:68 of SB 147 is intended to pre-empt any contention that municipal code enforcement officers--e.g. animal control officers, building and health inspectors, parking control officers and zoning administrators--are or should be subject to the training act. The amendment would specifically exempt from the scope of the definition those officers and employees who are not engaged in crime prevention or detection or in the enforcement of criminal or traffic laws. The amendment would exempt from K.S.A. 74-5602 (e) full-time or part-time officers or employees whose duties involve the issuance of citations, or the issuance of a notice to appear so long as that officer or employee is not authorized to effect an arrest of an individual, and if that officer or employee is not authorized to carry firearms in the performance of his or her duties.

This amendment to K.S.A. 74-5602 (e), if passed, would not in and of itself allow cities to use non-law enforcement officers to serve notices to appear issued by municipal courts. K.S.A. 12-4207 requires a notice to appear to be served by a "law enforcement officer". Because K.S.A. 12-4207 is part of the municipal court procedure act--an act which is subject to charter ordinance--cities must use their home rule power to "charter out" from K.S.A. 12-4207 before they can permit non-law enforcement personnel to serve notices to appear.

SB 147 also would amend K.S.A. 1984 Supp. 74-5607a to address a special question concerning municipal employees who serve arrest warrants. This amendment appears at lines 95:110 of the bill. The League believes that while employees who serve arrest warrants bear a closer resemblance to police officers than they do to building inspectors, etc., nonetheless their duties do not require the same level of law enforcement training as is necessary for a police officer engaged in crime detection and prevention. Accordingly, the proposed language would try to suit the level of training to fit the duties of the officer. It is our suggestion that the appropriate number of the hours of training for an officer authorized to serve arrest warrants, take people into custody and transport them to the municipal court or jail should be 80 hours.

TO: Members of the Senate Federal and State Affairs Committee
FROM: Lynn A. Goodell, Director of the Community Development Department for
the City of Lawrence
RE: Senate Bill No. 147
DATE: February 25, 1985

Attachment #2

As the director of the Community Development Department for the City of Lawrence, I support the adoption of Senate Bill No. 147. This bill would require completion of 80 to 320 hours of training for law enforcement officers at an approved training center.

The training would be developed specifically for officers who engage in serving warrants and who are authorized to carry firearms. Specific instruction in these areas is pertinent to their work activities and serves to protect the officer and the community at large.

Municipal employees, who neither make arrests nor are authorized to carry firearms, would not be benefited by 80 to 320 hours of training in these skills. Under Senate Bill No. 147 section (1)(e)(5), municipal employees are not required to undergo this training if the responsibilities include only issuance of citations, notices to appear, or service of warrants when such employees are not vested by law with the authority to make an arrest or to carry firearms when discharging their duties of employment.

Municipal employees, such as Codes Inspectors and their supervisory and support staff, are only involved in the documentation process of law enforcement; they call upon the police department if a warrant is to be served or an arrest is to be made. Additionally, the Municipal Code Enforcement Staff is not in

volved in nor ~~needs~~ to be trained in the use of firearms. Section (1)(e)(5) appropriately would exempt Municipal Code Enforcement staffs from the extensive training which only the police directly require.

Based on the foregoing reasons, I support the passage of Senate Bill No. 147.

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Attachment #3

WARRANT OFFICER

NATURE OF WORK

This is work of average difficulty processing and serving summonses and warrants for city regulatory and judicial departments.

Work involves responsibility for processing and serving misdemeanor summonses and bench warrants on subjects throughout the City. Employees of this class work independently and make decisions requiring independent judgment; however, assistance is available from other city departments on difficult or unusual cases. Work is reviewed through reports and results obtained.

EXAMPLES OF WORK (Any one position may not include all of the specific duties listed, nor do the examples cover all the duties which may be performed.)

Traverses City to deliver summonses and warrants; picks up subjects; transports subjects to city jail booking desk.

Processes required legal forms; maintains case files.

Prepares and submits regular reports of work activities.

Performs related work as required.

DESIRABLE EDUCATION AND EXPERIENCE

Graduation from high school and experience in public contact work, preferably related to law enforcement; or any equivalent combination of training and experience which provides the following knowledge, abilities, and skills:

Knowledge of legal or judicial process.

Knowledge of city street locations and of applicable traffic laws and regulations.

Some knowledge of city codes and ordinances relating to the departments responsible for issuing warrants and summonses.

Some knowledge of the operations of other city departments.

Ability to communicate effectively and to deal with the public in a tactful manner.



Attachment #4

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3731

June 29, 1984

ATTORNEY GENERAL OPINION NO. 84- 62

Ann Victoria Thomas
General Counsel
Office of the General Counsel
The University of Kansas
Strong Hall
Lawrence, Kansas 66045

Re: State Boards, Commissions and Authorities -- Law Enforcement Training Center -- Definition of Full-time and Part-time Officers

Synopsis: Parking service officers at the University of Kansas who engage in traffic control as part of their duties are contained within the definition of police officer or law enforcement officer found at K.S.A. 1983 Supp. 74-5602(e), and so are covered by the training provisions of the Law Enforcement Training Center Act, K.S.A. 1983 Supp. 74-5601 et seq. If such officers are employed by the University for 1,000 or more hours per year, they are full-time employees for the purposes of the act, despite performing traffic control as only a small part of their duties, and therefore must comply with the instructional requirements of the act for full-time employees. Cited herein: K.S.A. 8-1450, K.S.A. 1983 Supp. 74-5602, 74-5604a.

* * *

Dear Ms. Thomas:

As general counsel for the University of Kansas, you request the opinion of this office concerning whether a full-time state employee with limited law enforcement duties can be classified as a part-time law enforcement officer for purposes of the Law Enforce-

ment Training Center Act. That act, found at K.S.A. 1983 Supp. 74-5601 et seq., concerns the training of full-time and part-time police officers and law enforcement officers. You inquire whether employees at the University of Kansas whose principal duties concern regulation of parking, but who also perform occasional traffic direction duties, may be classified as part-time employees under the act.

According to K.S.A. 1983 Supp. 74-5602(e), a "police officer" or "law enforcement officer" is any full-time or part-time officer or employee of the state, whose duties include prevention or detection of crime and enforcement of criminal or traffic laws. We note that there is nothing in this subsection which indicates that such persons must have only these duties, which would leave the door open for individuals such as the parking service officers to be considered as police officers or law enforcement officers. Further, under K.S.A. 8-1450, the term "police officer" includes every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

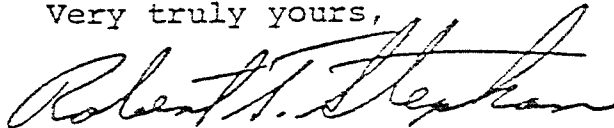
Accordingly, there can be little doubt that parking service officers who direct traffic, even as a very small part of their employment, would be police officers under the above definitions. While the positions which are specifically enumerated in K.S.A. 1983 Supp. 74-5602(e) do not specify parking services officers (although campus policemen are mentioned), this list is not inclusive. The only question which remains, therefore, is whether such officers can be considered full-time or part-time, as those terms are defined by subsections (f) and (g) of K.S.A. 1983 Supp. 74-5602.

The distinction made in these subsections between part-time and full-time lies in the number of hours of work per year in the person's employment, with full-time requiring at least 1,000 hours, with part-time being anything less than that. It is important to note that the definition is not couched in terms of hours of law enforcement or crime detection or prevention duties, but rather simply in terms of employment. In that the parking services officers are full-time employees, in our opinion they cannot be classified as part-time under this statute, even though their actual law enforcement duties take up only a small fraction of their time, and may indeed be less than 1,000 hours a year. While this change would not be difficult to amend into the statute, at the present time we cannot read it into the law, especially given the legislative history for the 1983 amendments to K.S.A. 74-5602 and 76-5604a, which indicate a legislative intent to broaden and strengthen law enforcement training in Kansas. While this is not to say that the number of hours required by K.S.A. 1983 Supp. 74-5604a for part-time officers

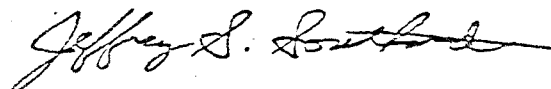
(80 hours) would not be sufficient for the parking service officers, at present the statutes do not contemplate a distinction made on the basis of duties, rather than on hours of employment.

In conclusion, parking service officers at the University of Kansas who engage in traffic control as part of their duties are contained within the definition of police officer or law enforcement officer found at K.S.A. 1983 Supp. 74-5602(e) and so are covered by the training provisions of the Law Enforcement Training Center Act, K.S.A. 1983 Supp. 74-5601 et seq. If such officers are employed by the University for 1,000 or more hours per year, they are full-time employees for the purposes of the act, despite performing traffic control as only a small part of their duties, and therefore must comply with the instructional requirements of the act for full-time employees.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Jeffrey S. Southard
Deputy Attorney General

RTS:JSS:crw

COMMENTS CONCERNING PROPOSED REVISIONS
OF THE UNIFORM VITAL STATISTICS ACT

Presented to the Senate Federal and State Affairs Committee
by Terry Harmon, Assistant State Archivist
February 25, 1985

For a number of years the Kansas State Historical Society has been consulting with officials of the Department of Health and Environment in an effort to answer many questions and resolve numerous problems related to use of vital statistics records for research purposes. Genealogy has become a very popular pursuit for thousands of Kansans and for countless people in other states whose ancestors have resided in Kansas. Records of births, deaths, marriages, and divorces compiled for vital statistics registration are one of the best available sources of information for persons involved in family history research. Access to such records also is needed by other historians seeking biographical information.

Unfortunately, there long has been much confusion and uncertainty in Kansas about the legality of disclosing various types of vital statistics records to researchers. A complex situation has evolved which is difficult to describe succinctly and precisely.

In 1911 legislation was adopted which initiated the compilation of vital statistics information by local registrars, most of whom have been city clerks, designated and supervised by the State Board of Health. The Department of Health and Environment and its predecessors long have prohibited disclosure of any birth or death information by these local registrars. They are instructed to refer all persons requesting vital statistics information to the Department of Health and Environment in Topeka. Genealogists often express frustration about their inability to obtain birth and death information from local registrars, and at least one city official--the city attorney in Ashland--repeatedly has sought authority to allow genealogists to prepare indexes or abstracts of the vital statistics records held by a local registrar.

The state registrar in Topeka has released vital statistics information in accordance with statutory restrictions in K.S.A. 65-2422 which for the most part require that persons receiving the data have "a direct interest in the matter recorded" and need it "for the determination of personal or property rights." Genealogists generally have been able to receive birth and death information from the state registrar by supplying the names and approximate dates of the births or deaths and by signing a declaration saying that they have "a direct interest in the matter" and need the information "for the determination of personal or property rights." Faced with thousands of requests for copies of birth and death records each year, the state registrar and his staff have been unable to review carefully the merits of each request. They have, however, carefully avoided releasing information about illegitimate births and causes of death except as provided by K.S.A. 65-2422 and K.A.R. 28-17-7, and they have denied requests for vital statistics information when the persons seeking it lack fairly specific information about the names and dates involved.

Prior to mid-1911, some county clerks, local public health officers, and city clerks compiled birth and death records, largely because of legislation adopted in 1885 which was never fully implemented. Chapter 129 of the Session

Laws of 1885 authorized, but apparently did not require, the collection of data regarding births, deaths, and communicable diseases by local officials acting under the supervision of the State Board of Health. Most of the vital statistics records created pursuant to this law are now in the custody of county clerks who are not local registrars. The information they contain is not duplicated in the records of the state registrar, which begin in mid-1911.

Some county clerks have made the information in their pre-1911 vital statistics records available to the public upon request, while others have believed that they legally could not do so. The same inconsistency has existed with regard to cemetery records containing data about deaths. Some custodians of cemetery records have gladly disclosed death information whenever requested, while others have said that public access to such records is restricted by law. The Department of Health and Environment always has assumed that it has no jurisdiction over any birth and death records created before the present registration system was created in mid-1911, but the state registrar has contended that information about illegitimate births and causes of death should be withheld from the public, regardless of the age of the records and regardless of whether the records were created and held by the Department of Health and Environment and its local registrars.

Over the years the State Historical Society occasionally has borrowed and microfilmed vital statistics records predating mid-1911. Because of the frequent requests for them received from researchers, we have wanted to microfilm such records systematically throughout the state. An opportunity to do so arose in 1984 when the Historical Society was approached by the Genealogical Society of Utah, which is associated with the Church of Latter-Day Saints, with a proposal for a cooperative microfilming project. Now underway in southeastern Kansas, it will involve filming local government records and some nongovernmental material with genealogical value in every Kansas county. State Historical Society personnel are preparing lists of the records in each county to be filmed and making other preliminary arrangements. A microfilm camera operator employed by the Genealogical Society of Utah is taking portable equipment to each county and spending several weeks there to do the filming. In return for cooperating in this project, the State Historical Society will receive duplicate rolls of the microfilm for use by researchers at our headquarters in Topeka. Local government agencies or local historical societies may purchase copies of the film at very reasonable prices. This type of microfilming project has been carried out very successfully by the Genealogical Society of Utah in other states. The quality of their microfilm is excellent, and the Kansas State Historical Society is very pleased to cooperate with them.

Anticipating that some county clerks and cemetery officials would have doubts about the legality of allowing inclusion of their vital statistics records in this microfilming project, the State Historical Society requested opinions of the Attorney General with regard to this and a number of related matters. The result was Opinion No. 84-101, which made it clear that a number of amendments to K.S.A. 65-2422 will be necessary if genealogists and historians are to have adequate access to vital statistics records. The Attorney General concluded that genealogical research does not involve "determination of personal or property rights." Genealogists, in other words, no longer can obtain birth and death information from vital statistics records held by the Department of Health and Environment. The status of the pre-1911 records held by county clerks and the death records of cemeteries is not fully clarified by Opinion No. 84-101. One portion suggests that most or all local officials pos-

sessing vital statistics records are affected by the provisions of K.S.A. 65-2422, while other statements in the opinion indicate that the law applies only to records held by state agencies and local registrars.

The opinion of the Attorney General does make it clear that the State Historical Society cannot disclose to researchers information in its microfilm copies of vital statistics records and that statutory changes will be necessary if we are to include birth and death records in our current cooperative microfilming project.

The bill we are asking this committee to introduce was prepared by the State Historical Society's department of archives in an effort to address the problems which I have attempted to summarize. It is a complex proposal which deals with a complicated situation.

The changes proposed in Section 1 are efforts to improve or expand the definitions of terms in K.S.A. 65-2401 which are used in the Uniform Vital Statistics Act.

Subsection 2(a) would amend K.S.A. 65-2422 in an effort to make the wording less awkward and in order to make it clear that the statute applies to vital statistics records held by all "records custodians," including county clerks and cemetery officials.

The provision in subsection 2(b) protecting the confidentiality of information about illegitimate births would be retained, but it would be limited to 70 years by subsection (i). References to subsections (e) and (k) would be added to allow disclosure of illegitimate birth records to researchers gathering statistical data or persons preparing indexes and abstracts of vital statistics records.

Subsection 2(c) would be added to the statute in order to limit restrictions on the disclosure of causes of death to 30 years following the deaths. This would modify the policy set forth in K.A.R. 28-17-7, which contains no such time limit.

The new language in subsection 2(d) is largely an effort to improve the wording, although it would for the first time authorize local registrars to disclose information in their records in some circumstances.

Subsection 2(e) would retain the policy of granting access to vital statistics records by persons involved in statistical research not involving disclosure by the researcher of data regarding identifiable individuals.

Subsections 2(f), 2(g), and 2(h) would retain existing provisions of K.S.A. 65-2422.

Subsection 2(i) would limit the confidential status of all vital statistics records to 70 years from the dates of the events recorded. This would enable researchers to carry out a direct examination of the records, or microfilm copies of them, in order to look for information they need without first possessing the names and approximate dates. Such a direct examination of vital statistics records often is very helpful to researchers. The 70-year period is the length of time federal census records are withheld from public

disclosure, and it is the time period incorporated in the Open Records Act (K.S.A. 1984 Supp. 45-221(e)).

Subsection 2(j) would enable genealogists and historians to obtain vital statistics information before 70 years had passed by providing the names of specific individuals and the approximate dates of the vital statistics involved to the records custodians. The records custodians then would disclose only information (or provide copies of records) related to the individuals requested. Researchers would not be granted direct access to vital statistics records for a general search prior to expiration of the 70-year period. This subsection would allow genealogists to obtain information about causes of death because such data is needed by persons who are studying family health patterns, but it would not authorize disclosure of illegitimate birth information.

Subsection 2(k) would authorize custodians of vital statistics records to allow genealogists or other persons to prepare and publish indexes or abstracts of any vital statistics records. Information about illegitimate births would have to be omitted from such indexes or abstracts for 70 years and causes of death would have to be excluded for 30 years. Some genealogical societies and local historical societies already have prepared and published such indexes or abstracts of vital statistics records created before mid-1911 under the 1885 law. This subsection would allow such endeavors to continue and would permit indexing or abstracting of records held by local registrars.

Subsection 2(l) would authorize including all vital statistics records more than 70 years old in the State Historical Society's cooperative micro-filming project. We thus would be able to film all the registers of births, deaths, marriages, and infectious diseases held by county clerks which were created prior to mid-1911 under the 1885 law, and also tax-supported cemetery records.

Subsection 2(m) would require persons requesting disclosure of vital statistics information pursuant to this act to sign oaths or affirmations regarding the facts stated in their applications. In some circumstances, moreover, these oaths would include pledges not to reveal information about illegitimate births or causes of deaths to other persons. Signing false oaths or affirmations or violation of such pledges would be a class C misdemeanor.

Subsection 2(n) would provide for court review of decisions made by custodians of vital statistics records pursuant to this section.

We regret that this bill is such a complex proposal, but it deals with a complicated situation requiring some delicate compromises. The state registrar believes, and many other people no doubt agree, that it is very important to continue limiting public access to vital statistics data, especially information regarding illegitimate births and causes of death, in order to protect privacy rights and the integrity of the vital statistics registration system. The State Historical Society believes that this can be done while still granting adequate access to the information needed by researchers. Compromises are needed in order to pursue two important conflicting goals--protecting rights of privacy and granting adequate public access to the archival resources of the state. We hope that members of this committee, records custodians, and the innumerable genealogists who are concerned about this matter will agree that this proposed bill would strike a proper balance.

Attachment #6

SENATE BILL NO. _____

By Committee on _____

AN ACT concerning the uniform vital statistics act; relating to disclosure of certain records; amending K.S.A. 65-2401 and 65-2422 and repealing the existing sections.

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

Section 1. K.S.A. 65-2401 is hereby amended to read as follows: 65-2401. As used in this act: (1) "Vital statistics" ~~includes--the--registration--preparation--transcription--collection--compilation--and--preservation--of~~ means data pertaining to birth, adoption, legitimation, death, stillbirth, marriage, divorce, annulment of marriage, and data incidental thereto compiled for registration performed or supervised by the department of health and environment or its predecessor agencies or contained in records of tax-supported cemeteries.

(2) "Live birth" means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, which, after such expulsion or extraction, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.

(3) "Stillbirth" means any complete expulsion or extraction from its mother of a product of human conception the weight of which is in excess of 350 grams, irrespective of the duration of pregnancy, which is not a live birth as defined in this act.

(4) "Dead body" means a lifeless human body or such parts of a human body or the bones thereof from the state of which it reasonably may be concluded that death recently occurred.

(5) "Person in charge of interment" means any person who places or causes to be placed a stillborn child or dead body or

the ashes, after cremation, in a grave, vault, urn or other receptacle, or otherwise disposes thereof.

(6) "Secretary" means the secretary of health and environment.

(7) "Records repositories" means the Kansas state historical society, genealogical societies, local historical societies, college or university libraries, public libraries and other non-profit organizations or institutions involved in the preservation of records or compilation of information for research purposes.

(8) "Records custodians" means the state registrar, local registrars and any persons responsible for preserving or making determinations regarding disclosure of vital statistics in the possession of records repositories or of any political subdivision of the state, including tax-supported cemeteries.

Sec. 2. K.S.A. 65-2422 is hereby amended to read as follows: 65-2422. ~~(a) The records and files of the division of health pertaining to vital statistics shall be open to inspection subject to the provisions of this act and regulations of the secretary; but it shall be unlawful for any officer or employee of the state to disclose data contained in vital statistical records, except as authorized by this act and the secretary and it shall be unlawful for anyone who possesses, stores or in any way handles vital statistics records under contract with the state to disclose any data contained in such records, except as authorized by law.~~ Vital statistics related to identifiable individuals in the possession of records custodians, or of anyone who in any way handles records under contract, shall not be disclosed except as authorized by this act and regulations of the secretary.

(b) Except as otherwise provided in subsections (e), (i) and (k) of this section, no disclosure of illegitimacy of birth or of information from which illegitimacy can be ascertained shall be made, except upon order of a court in a case where such information is necessary for the determination of personal or

property rights and then only for such purpose, but the state registrar and other records custodians shall ~~open the records~~ disclose the birth record of any person whose birth has been listed as illegitimate who has attained legal age and demands the opening disclosure.

~~(c)~~ (c) Except as otherwise provided in subsections (e), (j) and (k) of this section, no disclosure of the cause of death for an identifiable individual shall be made for 30 years following the death, except upon order of a court, or when the records custodian is satisfied that the applicant therefor has a direct interest in the matter and that the information is necessary for the determination of personal or property rights.

~~(d)~~ (d) The state registrar shall not permit inspection of the records or issue a certified copy of a certificate or part thereof unless he is satisfied that the applicant therefor has a direct interest in the matter recorded and that the information therein contained is necessary for the determination of personal or property rights. His decision shall be subject, however, to review by the secretary or a court under the limitations of this section. Vital statistics related to identifiable individuals shall be disclosed when records custodians are satisfied that the applicant therefor has a direct interest in the matter and that the information is necessary for the determination of personal or property rights.

~~(e)~~ (e) The secretary shall permit the use of data contained in vital statistical records for research purposes only, but no identifying use thereof shall be made. Vital statistics shall be disclosed when the records custodian is satisfied that the applicant therefor needs the information for research which does not involve compilation of data regarding identifiable individuals.

~~(f)~~ (f) Subject to the provisions of this section the secretary may direct local registrars to make a return upon the filing of birth, death and stillbirth certificates with them of certain data shown thereon to federal, state or municipal

agencies. Payment by such agencies for such services may be made through the state registrar to local registrars as the secretary shall direct.

~~(f)~~ (g) On or before the twentieth day of each month the state registrar shall furnish to the county election officer of each county, without charge, a list of deceased residents of such county who were at least ~~eighteen-(18)~~ 18 years of age, for whom death certificates have been filed in the office of the state registrar during the preceding calendar month, which list shall include the name, age or date of birth, address and date of death of each of such deceased persons, and shall be used solely by such election officer for the purpose of correcting records of their offices.

~~(g)~~ (h) No person shall prepare or issue any certificate which purports to be an original, certified copy, or copy of a certificate of birth, death, or fetal death, except as authorized in this act or regulations adopted hereunder.

(i) All records containing vital statistics shall be open to inspection by any person after 70 years from the dates of the events recorded. Inspection of microphotographic copies of such records, rather than the original documents, may be required by records custodians.

(j) Prior to 70 years from the dates of the events recorded, information from, or copies of, vital statistics records related to specific individuals shall be made available to any person involved in genealogical or historical research, provided that the person requesting such information or copies supplies the names of the specific individuals and the approximate dates of the vital statistics involved in the request, and provided that no information to which public access is restricted by subsection (b) of this section is disclosed.

(k) Indexes or abstracts of any vital statistics records in the possession of local registrars, of records repositories, or of political subdivisions of the state, or any records of tax-supported cemeteries, may be prepared by persons designated

by records custodians. Information to which public access is restricted by subsections (b) and (c) of this section shall be omitted from such indexes or abstracts. Any other vital statistics information may be included in the indexes or abstracts. Records repositories shall be allowed to prepare, publish and sell without profit copies of these indexes or abstracts. No commercial use shall be made of information contained in such indexes or abstracts.

(l) Records repositories shall be allowed to make or purchase microphotographic copies of vital statistics records, records of infectious diseases and tax-supported cemetery records in the possession of local registrars or political subdivisions of the state after 70 years from the dates of the events recorded.

(m) Any person requesting disclosure of vital statistics pursuant to subsections (b), (c), (d), (e), (j) or (k) of this section shall be required to sign an oath or affirmation swearing or affirming that the facts and reasons for requesting disclosure set forth in the application are correct to the best of the person's knowledge. When vital statistics are disclosed pursuant to subsections (e) or (k) of this section, the oath or affirmation signed by the person requesting the information shall include a pledge not to reveal to other persons any information to which public access is restricted by subsections (b) or (c) of this section. Signing a false oath or affirmation pursuant to this section, or violation of a pledge in such an oath or affirmation, shall be a class C misdemeanor.

(n) Decisions made pursuant to this section by the registrar shall be subject to review by the secretary or a court. Decisions made pursuant to this section by other records custodians shall be subject to review by a court.

Sec. 3. K.S.A. 65-2401 and 65-2422 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.