

MINUTES OF THE HOUSE LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Jene Vickrey at 3:30 p.m. on January 15, 2004 in Room 519-S of the Capitol.

All members were present except:

Representative Larry Campbell- excused
Representative Ralph Ostmeyer- excused
Representative Ruby Gilbert- excused

Committee staff present:

Martha Dorsey, Legislative Research Department
Mike Heim Legislative Research Department
Theresa Kiernan, Office of the Revisor of Statutes
Maureen Stinson, Committee Secretary

Conferees appearing before the committee:

none

Others attending:

See Attached List.

Bill Introductions

Theresa Kiernan, Office of the Revisor, presented a request from Sen. Barnett to re-introduce a bill concerning the use of pyrotechnics in places of public assembly. The Committee took no action concerning the request.

Kansas Open Records Act

Chairman Vickrey informed the Committee that special committees directed to begin review of the exceptions as recommended by the Interim Special Committee on Local Government would not be appointed in the immediate future. Another Interim Committee recommendation was that various special interest groups and state agencies meet together as one group and attempt to reach consensus on how the review should be conducted and what exceptions should be reviewed. This group has held meetings and may soon make a recommendation.

Staff Briefing

Norm Furse, Revisor of Statutes, briefed the committee concerning the legislative review of statutory exceptions to disclosure of public records (Attachment 1). Under K.S.A. 45-229, all statutory exemptions to disclosure in existence on July 1, 2000, expire on July 1, 2005, unless the legislature acts to reenact the exception. He said the Office of the Revisor of Statutes is currently in the process of identifying statutes which contain such exceptions. He said the number of exceptions has been revised downward and is now at 250 plus.

The Chairman adjourned the meeting at 3:45 p.m.

Next meeting is scheduled for January 20, 2004.

HOUSE LOCAL GOVERNMENT

DATE 1-15-04

NAME	REPRESENTING
Ron Seiber	Helm Law Firm
TOM DAY	KCC
MARK DESETTI	KNETA
TERRY FORSYTH	KNBA
Jim Edwards	KASB
Danielle Hoe	Johnson County
Scott Heidner	KS Consulting Engineers
Beth Lange	SRE
Fred Mertz	Ricardo Enterprises
Yvonne Anderson	KDHE
Tim Madden	KDOC
Harriet Lange	KS Assn of Broadcasters
Steve Johnson	Kansas Gas Service
Kim Gulley	LKM
Whitney Damron	KS Bar Assn.
Richard Gannon	KPA

MEMORANDUM

TO: House Committee on Local Government
FROM: Norm Furse, Revisor of Statutes
DATE: January 15, 2004
RE: Public Records Exceptions Review

- I. 2003 Interim Study. The Legislative Coordinating Council assigned the following study topic for review by the Special Committee on Local Government: "*Kansas Open Records Act.* Study all exceptions to the Kansas Open Records Act and recommend any needed changes. A 2000 law provided that all exceptions to disclosure in existence on July 1, 2000, and any new exception to disclosure or substantial amendment of an existing exception shall expire on July 1 of the fifth year after enactment unless the Legislature acts to reenact the exception. The Revisor of Statutes currently is in the process of identifying statutes which contain such exceptions."
- II. Legislative Review of Statutory Exceptions. See the attached document "Legislative Review of Statutory Exceptions to Disclosure of Public Records."
- III. Review of K.S.A. 45-229. See attached copy of K.S.A. 45-229.
- IV. Review of the Preparation Process for Identifying Exceptions. Revisor of Statutes review.
- V. Open Records Review List. See the attached preliminary draft "Open Records Review" document to be certified June 1, 2004.
- VI. Open Records Act Exclusion Section. See attached K.S.A. 2003 Supp. 45-221.

House Local Government
Date: 1-15-04
Attachment # 1

Legislative Review of Statutory Exceptions to Disclosure of Public Records

- Under K.S.A. 45-229, all statutory exemptions to disclosure in existence on July 1, 2000, expire on July 1, 2005, unless the legislature acts to reenact the exception.
- New exemptions to disclosure of public records expire on July 1 of the fifth year after enactment unless the legislature acts to reenact the exception.
- In the year before the expiration of an exception, the Revisor of Statutes certifies to the President of the Senate and the Speaker of the House by June 1 the statutory language and statutory citation of each exception which will expire the following year.
- The first such certification of the Revisor of Statutes will be June 1, 2004, for the sections which expire July 1, 2005.
- Under subsection (h) of K.S.A. 45-229, the legislature is directed to “review the exception before its scheduled expiration....”
- Exceptions to disclosure under the open records act which are not subject to review and expiration are exceptions required by federal law and exceptions which apply solely to the legislature or the state court system.

Prepared by Norm Furse, Revisor of Statutes

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[Home](#) > [Kansas Statutes](#) > Kansas Statute No. 45-229

45-229

Chapter 45.--PUBLIC RECORDS, DOCUMENTS AND INFORMATION Article 2.--RECORDS OPEN TO PUBLIC

45-229. Legislative review of exceptions to disclosure. (a) It is the intent of the legislature that exceptions to disclosure under the open records act shall be created or maintained only if:

- (1) The public record is of a sensitive or personal nature concerning individuals;
- (2) the public record is necessary for the effective and efficient administration of a governmental program; or
- (3) the public record affects confidential information.

The maintenance or creation of an exception to disclosure must be compelled as measured by these criteria. Further, the legislature finds that the public has a right to have access to public records unless the criteria in this section for restricting such access to a public record are met and the criteria are considered during legislative review in connection with the particular exception to disclosure to be significant enough to override the strong public policy of open government. To strengthen the policy of open government, the legislature shall consider the criteria in this section before enacting an exception to disclosure.

(b) All exceptions to disclosure in existence on July 1, 2000, shall expire on July 1, 2005, and any new exception to disclosure or substantial amendment of an existing exception shall expire on July 1 of the fifth year after enactment of the new exception or substantial amendment, unless the legislature acts to reenact the exception. A law that enacts a new exception or substantially amends an existing exception shall state that the exception expires at the end of five years and that the exception shall be reviewed by the legislature before the scheduled date.

(c) For purposes of this section, an exception is substantially amended if the amendment expands the scope of the exception to include more records or information. An exception is not substantially amended if the amendment narrows the scope of the exception.

(d) This section is not intended to repeal an exception that has been amended following legislative review before the scheduled repeal of the exception if the exception is not substantially amended as a result of the review.

(e) In the year before the expiration of an exception, the revisor of statutes shall certify to the president of the senate and the speaker of the house of representatives, by June 1, the language and statutory citation of each exception which will expire in the following year which meets the criteria of an exception as defined in this section. Any exception that is not identified and certified to the president of the senate and the speaker of the house of representatives is not subject to legislative review and shall not expire. If the revisor of statutes fails to certify an exception that the revisor subsequently determines should have been certified, the revisor shall include the exception in the following year's certification after that determination.

(f) "Exception" means any provision of law which creates an exception to disclosure or limits disclosure under the open records act pursuant to K.S.A. 45-221, and amendments thereto, or pursuant to any other provision of law.

(g) A provision of law which creates or amends an exception to disclosure under the open records law shall not be subject to review and expiration under this act if such provision:

- (1) Is required by federal law;
- (2) applies solely to the legislature or to the state court system.

(h) (1) The legislature shall review the exception before its scheduled expiration and consider as part of the review process the following:

- (A) What specific records are affected by the exception:

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(B) whom does the exception uniquely affect, as opposed to the general public;

(C) what is the identifiable public purpose or goal of the exception;

(D) whether the information contained in the records may be obtained readily by alternative means and how it may be obtained;

(2) An exception may be created or maintained only if it serves an identifiable public purpose and may be no broader than is necessary to meet the public purpose it serves. An identifiable public purpose is served if the legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exception and if the exception:

(A) Allows the effective and efficient administration of a governmental program, which administration would be significantly impaired without the exception;

(B) protects information of a sensitive personal nature concerning individuals, the release of which information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals. Only information that would identify the individuals may be excepted under this paragraph; or

(C) protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information which is used to protect or further a business advantage over those who do not know or use it, the disclosure of which information would injure the affected entity in the marketplace.

(3) Records made before the date of the expiration of an exception shall be subject to disclosure as otherwise provided by law. In deciding whether the records shall be made public, the legislature shall consider whether the damage or loss to persons or entities uniquely affected by the exception of the type specified in paragraph (2)(B) or (2)(C) of this subsection (h) would occur if the records were made public.

History: L. 2000, ch. 156, § 8; July 1.

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DRAFT

Revised January 14, 2004

OPEN RECORDS REVIEW – EXCEPTIONS EXISTING JULY 1, 2000

RE: K.S.A. 45-229

To Be Certified June 1, 2004

Exceptions Expire July 1, 2005

1-401	C.P.A. peer review data confidential
2-1202	Fertilizers – sec. <u>not</u> disclose business operations of applicant
5-512	Dispute resolution – privilege of communications
9-1137	Banking – compliance review documents – confidential
9-1712	Banking – investigations & examinations – confidential
9-2217	Banking – mortgage business – exam & reports – confidential
10-630	Municipal bonds – registration – exempt from public inspection etc.
11-306	Census – confidential information
12-189	City-County sales tax – reports to director confidential
12-1,108	Intangibles tax – returns etc confidential
12-1694	Transient guest tax – report by director confidential
12-1698	Transient guest tax – report by director confidential
12-2819	Metro transit authority – documents open except those used in negotiations
12-4516	Municipal courts – expungement – disclosure exceptions
16-715	Pawnbrokers & precious metal dealers – report of property pledged
16a-2-304	U.C.C.C. – annual report confidential
17-1312e	Cemetery corp. – Sec. State exam records confidential
17-2227	Credit unions – adm. – investigations – information confidential
17-5832	Savings & loan – compliance review documents – confidential
17-7503	Corporations – domestic – franchise tax – amount <u>not</u> disclosed by Sec. State
17-7505	Corporations – foreign – franchise tax – amount <u>not</u> disclosed by Sec. State
17-7511	Corporations – income tax – return <u>not</u> disclosed by Sec. State
17-7514	Corporations – time extension – Sec. State confidential file
17-7515	Corporations – annual report – part confidential (section now repealed)
17-7656	Limited liability co. – annual report – part confidential (section now repealed)
17-7690	Limited liability co. – certain info – part confidential
17-76,139	Limited liability co. – certain info – part confidential
19-4321	Sheriff – civil service bd. – info open to public as prescribed by board
21-2511	Criminal investigations – genetic marker information confidential
22-3711	Parole board – certain info – reports confidential
22-4707	KBI criminal history record info – restricted dissemination
22-4909	Sex offender registration – certain info not disclosed
22a-243	Coroner – child death review board – records – confidential
22a-244	Coroner – child death review board – records – confidential
23-605	Domestic dispute mediation – privileged information
23-9,312	Interstate family support – nondisclosure

25-4161 Elections – campaign finance – complaint confidential
 25-4165 Elections – campaign finance – records of investigation confidential
 25-4171 Elections – campaign finance – violating confidentiality
 31-405 Arson reporting – information confidential
 34-251 Grain warehousing – inspection certain info confidential
 38-1508 Code for care of children – abuse & neglect not disclosed
 38-1520 Code for care of children – information system confidential – reports
 38-1565 Placement of child – report confidential
 38-1609 Juvenile offender code – diagnostic – medical records, confidential
 38-1610 Juvenile offender code – expungement – confidential
 38-1618 Juvenile justice code – information system confidential
 38-1664 Juvenile justice code – foster parents report confidential
 39-709b Welfare assistance – confidential – exceptions
 39-719e Welfare assistance – medical benefit providers – confidential – not under open records
 39-934 Adult care homes – confidential info
 39-1434 S.R.S. statewide register – abuse & neglect reporting – certain confidential – not under open records

 39-1704 S.R.S. – regional interagency councils – confidentiality
 40-222 Insurance – condition of company – report confidential
 40-2,156 Insurance – acquisition & disposition of assets report confidential
 40-2,177 Insurance – viator – confidential (section now repealed)
 40-2,178 Insurance – viator – confidential (section now repealed)
 40-2,180 Insurance – viator – settlement – medical info – confidential (section now repealed)
 40-2c20 Insurance – risk based capital – report confidential
 40-2c21 Insurance – risk based capital – publication prohibited
 40-2d20 Insurance – risk based capital – reports confidential
 40-2d21 Insurance – risk based capital – HMO manage care org.
 40-409 Insurance – life – actuary opinion – mem supporting confidential
 40-956 Insurance – fire – rating org – info for exam confidential
 40-1128 Insurance – liability – health care provider
 40-2807 Insurance – disclosure – tax reports & returns
 40-3012 Insurance – impaired insurer – reports etc confidential
 40-3304 Insurance – holding companies – lender confidential
 40-3305 Insurance – holding companies – registration of insurers, disclosure
 40-3308 Insurance – holding companies – exam – registration of insurers, disclosure
 40-3403b Insurance – health care stabilization fund – committee – registration of insurers, disclosure
 40-3421 Insurance – mortgage guaranty – insurer report confidential
 40-3613 Insurance – impaired or insolvent insurer confidential not subject to act
 40-3805 Insurance – trade secrets confidential
 40-4205 Insurance – prepaid legal & dental – trade secrets – confidential
 44-510j Worker comp. – utilization & peer review – privileged
 44-550b Worker comp. – open record – except (list)
 44-594 Worker comp. – employer financial info confidential

44-635 Sec. human resources – interrogatories & testimony – confidential
 44-714 Employment security – employing unit records & reports – confidential
 44-817 Employer – employee relations, mediators – communication confidential
 44-1005 Human rights comm. – investigations – agreement – not disclosed
 44-1019 Human rights comm. – investigations – agreement – not disclosed
 44-1514 Athlete agents – Sec. State investigation – confidential (section now repealed)
 45-221 Open records act – exceptions (a)(1) through (a)(43)
 46-256 Governmental ethics – complaint – confidentiality
 46-259 Governmental ethics – investigations – records & proceedings confidential
 46-2201 Joint committee on pensions, investments etc – information concerning trustees – confidential
 47-839 Veterinarian – care – confidentiality
 47-844 Veterinarian – payment of civil penalty – constitutes satisfaction for purposes of public disclosure
 47-849 Veterinarian – impaired – investigation confidential
 47-1709 Animal dealers – complaint – confidentiality
 48-1614 Nuclear energy development & control – trade secrets not disclosed
 49-406 Mined land – permits – analysis of coal – confidential
 49-427 Mined land – commercial & financial info
 55-1,102 Corp. comm. – gas gathering – not required to disseminate data
 56-1a606 Limited partnership – domestic – Sec. State – franchise tax – not disclosed
 56-1a607 Limited partnership – foreign – Sec. State – franchise tax – not disclosed
 56a-1201 Limited liability partnership – domestic – Sec. State – franchise tax – not disclosed
 56a-1202 Limited liability partnership – foreign – Sec. State – franchise tax – not disclosed
 58-4114 Real estate appraisers – address not disclosed
 59-2135 Adoption – files not open – except
 59-2802 Personal representatives – reports to county welfare etc confidential
 59-2979 Care & treatment – mentally ill – records & reports confidential
 59-29b79 Alcohol & substance abuse – records privileged – exceptions
 60-3333 Environmental audits – audit report – privilege
 60-3335 Environmental audits – procurement by court
 60-3336 Environmental audits – information – no privilege
 60-3337 Environmental audits – statutory or common law privilege
 65-102b Sec. health & environ. – noninfectious diseases – confidential
 65-118 Local health care providers – contagious diseases – report confidential
 65-119 Local health care providers – communications – report confidential
 65-153f Prenatal serological tests – confidential reports
 65-170g Sec. health & environ. – discharge water pollutants – trade secrets confidential
 65-177 Medical research studies – confidentiality
 65-1,106 Sickle cell testing – confidential
 65-1,113 Health manpower planning – confidential
 65-1,116 Diabetes mellitus – confidential – exceptions
 65-1,117 Diabetes mellitus – disclosure – penalty

65-1,157a Newborn infant hearing – screen – confidential
65-1,163 Pregnant women – prenatal substance abuse info – confidential
65-1,165 Pregnant women – prenatal substance abuse info – confidential
65-1,168 Cancer registry – data confidential
65-1,169 Cancer registry – data confidential
65-1,171 Cancer registry – data confidential
65-1,172 Cancer registry – data confidential
65-436 Hospitals – licensing – confidentiality
65-445 Abortion – confidentiality
65-507 Maternal & child care centers – records – confidentiality
65-525 Maternal & child care centers – records – exceptions
65-531 Immunization records – certain disclosures
65-657 Health & environ. – food & drug – trade secrets
65-1135 Nursing – complaint & investigation of licensee confidential
65-1467 Dentists – complaint & investigation of licensee confidential
65-1627 Pharmacists – license – revocation investigation confidential
65-1831 Barber bd & officers – investigations etc confidential
65-2422d Vital statistics – certain info not disclosed
65-2438 Dead bodies – diseases – confidential
65-2836 Healing arts – licensure – revocation – investigate – confidential
65-2836a Healing arts – licensure – revocation – investigate – confidential (section now repealed)
65-2839a Healing arts – investigations info – confidential
65-2898a Healing arts – malpractice reports – confidential
65-3015 Air quality control – trade secrets – confidential
65-3447 Hazardous waste – trade secrets – confidential
65-34,108 Storage tanks – trade secrets – confidential
65-34,126 Storage tanks – 3rd party liability insurance – confidential
65-4019 Alcoholism – intox treatment – info – confidential
65-4608 Drug abuse – intox treatment – info – confidential
65-4922 Medical care facilities – reports & records – confidential
65-4925 Health care provider – impaired provider reports privileged
65-5602 Mental health facilities – treatment etc privilege
65-5603 Mental health facilities – treatment etc privilege – exceptions
65-6002 Sec. health & environ. – HIV – reporting – confidentiality
65-6003 Sec. health & environ. – HIV – reporting – investigations – confidentiality
65-6004 Sec. health & environ. – HIV – reporting – physician disclosure – confidentiality
65-6005 Sec. health & environ. – HIV – disclosure – penalties
65-6010 Sec. health & environ. – court order – tests – confidential
65-67a05 Fetal organs & tissue – info – confidential
65-6803 Health care data board – data – confidential
65-6804 Health care data board – data – confidential
66-101c Corp. comm. – electric public utilities – contracts – confidential
66-117 Corp. comm. – electric – tariff, schedules, etc determined confidential

66-151 Corp. comm. – electric – tariff, schedules, etc determined confidential
 66-1,190 Corp. comm. – telecommunications – contracts determined confidential
 66-1,203 Corp. comm. – natural gas – contracts determined confidential
 66-1220a Corp. comm. – trade secrets & commercial information confidential
 66-2010 Universal service fund adm. – info – carriers & utilities
 72-996 School dispute resolution – info confidential
 72-4311 Sec. S.R.S. voc. rehab. – rules & regs protection of confidential records
 72-4452 Voc. ed & proprietary schools – info state board – confidential
 72-5214 Health assessments – confidential
 72-53,106 Pupil identification – information confidential
 72-5427 Mediation – confidential communications
 72-8202f School dist. employment – criminal history records confidential (section now expired)
 72-8903 Suspension & expulsion – pupils – disclosure limited
 73-1228 Gulf war veterans syndrome – survey confidential
 74-2424 Sec. revenue – tax information disclosure limited
 74-2433f Bd. tax appeals – small claims – certain documents confidential
 74-4905 KPERS bd. members – KBI investigation – information to senate confidential
 74-4909 KPERS bd. members – member accounts & records confidential
 74-50,131 Commerce & housing – certain info not subject to 45-215
 74-5515 Developmental disabilities protection agency confidential
 74-7308 Crime victims bd. – records & basis of claim confidential
 74-7338 Crime victims bd. – name & address – victim – confidential
 74-7405a Corrections ombudsman – complaints by inmates – employees not disclosed
 74-8104 KTEC – client proprietary info confidential
 74-8307 Venture capital co. – documents submitted by companies not public
 74-8705 State lottery – info on major contracts – confidential
 74-8804 Parimutuel racing – investigation licenses & employees – confidential
 74-9805 Tribal gaming – employees – licensees criminal history records confidential
 75-104 Governors records – certain not disclosed
 75-712 K.B.I. – gubernatorial appointees investigation – confidential
 75-7b15 Private investigators – AG subpoena – confidentiality
 75-1267 Bldg. specs & documents – correctional institutions not open to public
 75-2943 Civil service – performance ratings & reports – sec. adm. determine extent open
 75-4332 Officer – employee relations – mediation – information confidential
 75-4362 State drug screening program – test results confidential
 75-5133 Dir. of taxation – licensure, registration & tax returns – confidentiality
 75-5266 Correctional facilities, psychiatric evaluation reports – confidentiality
 75-5665 Statewide trauma system – certain info confidential
 75-5666 Statewide trauma system – certain info confidential
 75-7310 Long term care ombudsman – record & reports of residents confidential
 76-355 Medical center records – identity of patient not disclosed
 76-359 Medical center records – identity of patient not disclosed
 76-493 K.S.U. med center – peer review committee – privileged

- 76-12b11 M.R. institutions – patient records privileged – exceptions
- 76-3305 KU hospital authority – certain info not subject to open records
- 79-1119 Bank, trust & savings & loan – taxation – reports & statements etc confidential
- 79-1437f Real estate sales validation questionnaire
- 79-15,118 Estate tax – disclosure prohibited – exceptions
- 79-3234 Revenue dept – tax information – limits on disclosure
- 79-3395 Cigarette & tobacco tax – imported – statement confidential
- 79-3420 Motor vehicle fuels – reports – confidential
- 79-3499 L.P. gas – reports – investigations confidential
- 79-34,113 Interstate motor fuel users – reports etc – confidential
- 79-3614 Sales tax – returns & investigations – confidential
- 79-3657 Multistate state tax – returns – confidential
- 79-4301 Multistate tax compact audits – confidential
- 79-5206 Marijuana & controlled substances – report & returns confidential

SUBSTANTIALLY AMENDED YEAR 2000 OPEN RECORD EXCEPTIONS

Exceptions Enacted After 2000 Expire
July 1 of the Fifth Year after Enactment

SUBSTANTIALLY AMENDED 2000 SECTIONS – 2001 SESSION

- 1-501 C.P.A. peer review
- 12-4516a Expungement – municipal courts
- 25-2309 Voter registration – address (federal law exemption)
- 38-1692 Infectious disease – testing
- 40-2404 Insurance – deceptive acts – nonpublic personal info (federal law exemption)
- 45-221 Open records – exceptions (a)(44)
- 65-525 Maternity centers – child care facilities – records
- 65-6016 Infectious disease – disclosure
- 65-6017 Infectious disease – disclosure

SUBSTANTIALLY AMENDED 2000 SECTIONS – 2002 SESSION

- 45-221 Open records – exemption (a)(45)

SUBSTANTIALLY AMENDED 2000 SECTIONS – 2003 SESSION

- 39-1411 Sec. of Aging – abuse and neglect reporting
- 39-1436 Records subject to confidentiality under 39-1434
- 45-221 Open records – exception (a)(46)
- 65-4915 Health care providers – peer review reports (am. 2003, eff 4/04)

DRAFT

COURTS

(exempt 7-1-2000)

20-319	Juvenile justice system – disclosure
20-1204a	Indirect contempt – information subject to gag order
20-2205	Judicial council – operation of courts etc.
21-3525	Evidence – complaining witness – prior sexual conduct
21-4619	Expungement – disclosure – when
21-4714	Presentence investigation report – disclosure
22-2410	Expungement – disclosure – when
22-2515	Interception of communications – privilege
22-2516	Interception of communications – privilege
22-3012	Grand jury – disclosure
22-3212	Discovery and inspection – restrictions by court
22-3434	Child victim – testimony – videotape
23-130	Artificial insemination – consent filed in district court
38-1128	Birth certificate – paternity confidential file
38-1356	Child custody – disclosure
38-1506	Code for care of children – reports – privilege
38-1507	Code for care of children – reports
38-1514	Code for care of children – reports – witness or file
38-1554	Code for care of children – reports – privilege
38-1597	Code for care of children – file – privilege
38-1607	Juvenile justice code – file – privilege
38-1608	Juvenile justice code – file – privilege
40-3615	Insurance – delinquency proceeding confidential
45-222	Public records – review
59-212	Probate – docket – mentally ill and adoptions
59-214	Probate – records – except adoptions
59-2122	Probate – records – except adoptions
59-2965	Care and treatment – mentally ill
59-29b65	Alcohol and substance abuse – privilege
59-3013	Guardian and conservator – evidence (section now repealed)
59-3018a	Guardian and conservator – placement of ward (section now repealed)
60-226	Civil procedure – discovery
60-237	Civil procedure – discovery – disclosure
60-243	Civil procedure – evidence – privilege – witness
60-245	Civil procedure – subpoenas – confidential or privileged information
60-423	Civil procedure – evidence – accused – privilege of witness
60-426	Civil procedure – evidence – lawyer-client privilege
60-427	Civil procedure – evidence – physician-patient privilege
60-428	Civil procedure – evidence – marital privilege

60-433	Civil procedure – evidence – secretary of state – privilege
60-434	Civil procedure – official information – privilege
60-435	Civil procedure – evidence – communications to grand jury
60-436	Civil procedure – evidence – identity of informer
60-437	Civil procedure – evidence – waiver of privilege
60-438	Civil procedure – evidence – disclosure wrongfully compelled
60-452a	Civil procedure – dispute resolution – privilege
60-3104	Civil procedure – protection from abuse – address and telephone
60-3324	Civil procedure – trade secrets – protection
60-3504	Professional malpractice screening panels
60-4106	Asset seizure and forfeiture – compelled disclosure
60-4109	Asset seizure and forfeiture
60-4118	Asset seizure and forfeiture
60-4119	Asset seizure and forfeiture
61-3604	Execution – disclosure of property
65-6705	Abortion – identity & record – confidential
75-7023	Juvenile intake & assessment – records – confidential

FEDERAL LAW

(exempt 7-1-2000)

11-204	Census – information confidential (U.S.C. Title 13)
22-2515	Interception of communications – privilege
25-2309	Elections – voter registration – application confidential
25-2352	Elections – voter registration (motor-voter) – application confidential
39-759	Absent parents – info concerning
39-7,136	Paternity and child support – information confidential (Title IV D)
40-2404	Insurance – unfair competition – nonpublic personal info
40-3226	Insurance – impaired insurer – medical info confidential
65-1,108a	Tests performed under 42 CFR part 493
65-5704	Emergency planning and community right-to-know – trade secrets – federal act
72-6214	Schools – educational institutions etc – student privacy – federal law
74-2012	Division of vehicles – certain records confidential
75-5649	Early intervention services (health & environment) (P.L. 102-119, part H)
75-5742	Directory of new hires (Act of 1996) except as otherwise permitted by
75-5945	Long-term care – confidentiality as required by federal law

45-221. Certain records not required to be open; separation of open and closed information required; statistics and records over 70 years old open. (a) Except to the extent disclosure is otherwise required by law, a public agency shall not be required to disclose:

(1) Records the disclosure of which is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or the disclosure of which is prohibited or restricted pursuant to specific authorization of federal law, state statute or rule of the Kansas supreme court to restrict or prohibit disclosure.

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

(3) Medical, psychiatric, psychological or alcoholism or drug dependency treatment records which pertain to identifiable patients.

(4) Personnel records, performance ratings or individually identifiable records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such.

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

(6) Letters of reference or recommendation pertaining to the character or qualifications of an identifiable individual.

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

(8) Information which would reveal the identity of an individual who lawfully makes a donation to a public agency, if anonymity of the donor is a condition of the donation.

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

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

(A) Is in the public interest;

(B) would not interfere with any prospective law enforcement action;

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

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

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

(F) would not reveal the name, address, phone number or any other information which specifically and individually identifies the victim of any sexual offense in article 35 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(23) Library patron and circulation records which pertain to identifiable individuals.

(24) Records which are compiled for census or research purposes and which pertain to

identifiable individuals.

(25) Records which represent and constitute the work product of an attorney.

(26) Records of a utility or other public service pertaining to individually identifiable residential customers of the utility or service, except that information concerning billings for specific individual customers named by the requester shall be subject to disclosure as provided by this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

(36) Information which would reveal the precise location of an archeological site.

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

(38) Risk-based capital reports, risk-based capital plans and corrective orders including the working papers and the results of any analysis filed with the commissioner of insurance in accordance with K.S.A. 40-2c20 and 40-2d20 and amendments thereto.

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

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

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

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

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

added since 2000
(44) The amount of franchise tax paid to the secretary of state by domestic corporations, foreign corporations, domestic limited liability companies, foreign limited liability companies, domestic limited partnership, foreign limited partnership, domestic limited liability partnerships and foreign limited liability partnerships.

(45) Records the disclosure of which would pose a substantial likelihood of revealing security measures that protect: (A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services; or (B) sewer or wastewater treatment systems, facilities or equipment. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination or kidnapping.

(46) Any information or material received by the secretary of state pursuant to subsection (b) of K.S.A. 2003 Supp. 44-1518, and amendments thereto, except when such information is required to be submitted in an application pursuant to K.S.A. 2003 Supp. 44-1520, and amendments thereto.

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

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

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

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

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

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