

## MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Lance Kinzer at 3:30 p.m. on March 9, 2010, in Room 346-S of the Capitol.

All members were present except:

Representative Jim Ward- excused  
Representative Kevin Yoder- excused

Committee staff present:

Jason Long, Office of the Revisor of Statutes  
Matt Sterling, Office of the Revisor of Statutes  
Jill Wolters, Office of the Revisor of Statutes  
Athena Andaya, Kansas Legislative Research Department  
Lauren Douglass, Kansas Legislative Research Department  
Sue VonFeldt, Committee Assistant

Conferees appearing before the Committee:

Randy Hearrell, Kansas Judicial Council  
Honorable Sam K. Bruner, Retired District Judge, Overland Park  
Jayne Rhys, Kansas Council on Developmental Disabilities  
Judge Karen Arnold-Burger, Kansas Judicial Council

Others attending:

See attached list.

The hearing on **SB 371 - Increasing the property damage amount that would allow the prevailing party to receive attorney fees** was opened.

Matt Sterling, Office of Revisors of Statutes, provided an overview of the bill for the committee, that amends K.S.A. 60-2006, which provides for recovery of attorney fees in actions to recover for property damage caused by the negligent operation of a motor vehicle. He explained under current law, a party can recover reasonable attorney fees for an action for property damage totaling less than \$7,500 and this bill will double that amount, allowing a prevailing party to recover reasonable attorney fees if the property damage was less than \$15,000. (Attachment 1)

Randy Hearrell, addressed the committee as a proponent of the bill stating the limit in the statute was last changed in 1990 when it was increased from \$3,000 to \$7,500. He explained the dollar amount contained in the statute has been changed three times since it was enacted in 1969, and given the length of time since the last increase, the increase in consumer price index since that time and the increase in the cost and complexity of motor vehicle repair, the Judicial Council recommends the adoption of the increase in K.S.A. 60-2006 from \$7,500 to \$15,000. (Attachment 2)

There were no opponents.

The hearing on **SB 371** was closed.

The hearing on **SB 372 - Amending the Kansas Act for Obtaining a Guardian or a Conservator, or both** was opened.

Jason Long, office of Revisors of Statutes, provided an overview of the bill for the committee, which makes amendments to the Act for Obtaining a Guardian or a Conservator, or Both (Act) by creating a new section of law which provides that orders establishing or governing a guardianship or conservatorship that are issued by a court in another state are to be given full faith and credit in Kansas unless doing so is a specific violation of Kansas law. In addition, the amendment would require that the petition include a statement of the places where the proposed ward or conservatee has lived during the last five years, and the names and current addresses of those people with whom the ward or conservatee lived during that same period. (Attachment 3)

## CONTINUATION SHEET

Minutes of the House Judiciary Committee at 3:30 p.m. on March 9, 2010, in Room 346-S of the Capitol.

Honorable Sam K. Bruner, retired District Court Judge, addressed the committee on behalf of the Kansas Judicial Council as the Chairman of the Guardian and Conservatorship Advisory Committee and in support of the bill. He explained when they were reviewing a bill, **2009 SB 235**, that would enact the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA) in Kansas, the committee identified two areas where the Kansas Guardianship Act could be improved.

1) "The Committee recognized that some institutions may be reluctant to recognize out of state guardianship and conservatorship orders. Although this should already be happening, in practice, that may not always be the case. For this reason, the committee recommended the new section 1, which would require that out-of-state guardianship or conservatorship orders be given full faith and credit in Kansas, except when doing so would be in specific violation of Kansas law. New section 1 is intended as an alternative procedure to the transfer provisions of K.S.A. 59-3061."

2) "Amend the petition sections of the Kansas Guardianship Act to require that a petitioner plead where and with whom a proposed ward or conservatee has resided for the last five years. This would give judges more information enabling them to ascertain when a case might involve "granny snatching" (the unauthorized removal or retention of an elderly person in order to pursue a guardianship in another state or avoid a guardianship in the elderly person's home state)." (Attachment 4)

Jane Rhys, Ph.D., Executive Director of Kansas Council on Developmental Disabilities, appeared as a proponent of the bill and stated she served on the Kansas Judicial Council's Guardianship and Conservatorship Advisory Committee, regarding jurisdictional issues and information to be included in the petition for guardianship and conservatorship. She stated they believe the two issues as requested in this bill are reasonable and ask the bill be passed.

In addition, she stated an amendment was proposed to the bill at the Senate Judiciary Committee's hearing. She also said the amendment was not discussed with the Judicial Council's Committee and she would recommend that this bill be passed as is and that any proposed changes be provided to the Advisory Committee for review and discussion and that would also provide the disability community stakeholders time for study and review. (Attachment 5)

Robert Harvey, a member of the AARP National Policy Council, and on behalf of AARP Kansas, provided written testimony in support of the bill. (Attachment 6)

There were no opponents.

The hearing on **SB 372** was closed.

The hearing on **SB 373-Clarifying which municipal ordinance violations require the payment of an assessment** was opened.

Jill Wolters, Office of Revisor of Statutes, presented an overview of the bill that clarifies which municipal ordinance violations require payment of an assessment of \$19. Attorney General Opinion 97-31 states that municipal ordinances are not laws and therefore, violations of ordinances without a statutory counterpart are not crimes. This apparently caused confusion and some courts were requiring the \$19 assessment on all violations while others were not. This bill would delete the reference to a crime to clarify that all municipal ordinance violations, except for nonmoving traffic violations, are subject to the assessment.

Honorable Karen Arnold-Burger, Member of the Municipal Court Advisory Committee, Kansas Judicial Council, addressed the committee to explain the need for this bill. The Judicial Council Municipal Court Manual (MCM) Committee was asked to review K.S.A. 12-4117, which requires an assessment in any municipal court case "charging a crime other than a nonmoving traffic violation, where there is a finding of guilty, a plea of guilty, a plea of no contest, forfeiture of bond or a diversion." There appeared to be some confusion as to which municipal ordinance violations require the payment of an assessment. This bill would amend the law to clarify that all municipal ordinance violations, except for nonmoving traffic violations require the municipal court to charge a \$19 assessment. (Attachment 7)

There were no opponents.

CONTINUATION SHEET

Minutes of the House Judiciary Committee at 3:30 p.m. on March 9, 2010, in Room 346-S of the Capitol.

The hearing on **SB 373** was closed.

**SB 437 - Secretary of state; resident agent filing requirements**

Representative Brookens made the motion to report SB 437 favorably for passage.

Representative Colloton seconded the motion. Motion carried.

**SB 439 - Kansas register; contents, procedure for submitting materials for publication.**

Chairman Kinzer requested Jason Long, Office of the Revisor of Statutes to explain the balloon requested by the Secretary of State. In response to a question during the hearing on this bill, he explained this balloon would clarify they would still have the authority to publish summaries as shown on the balloon, starting on page one, Section (6) and continued on page 2 of the balloon. (Attachment 8)

Representative Pauls made the motion to report SB439 favorably for passage as amended.

Representative Brookens seconded the motion. Motion carried.

**SB 441 - Business entity transactions act; limited partnership mergers.**

Representative Brookens made the motion to report SB 441 favorably for passage.

Representative Grange seconded the motion. Motion carried.

**SB 369 - Open records; reconciling a conflict**

Representative Brookens made the motion to report SB 369 favorably for passage.

Representative Talia seconded the motion.

Chairman Kinzer made the substitute motion to amend the bill to include the contents of HB 2529, per the balloon. (Attachment 9)

Representative Ward seconded the motion. Motion carried.

Representative Wolf made a motion to amend the bill to include the contents of HB 2583, per the balloon. (Attachment 10)

Representative Keuther seconded the motion. Motion carried.

Representative Pauls made the motion to report SB 369 favorably for passage as amended.

Representative Grange seconded. Motion carried.

The next meeting is scheduled for March 10, 2010.

The meeting was adjourned at 4:20 p.m.

# JUDICIARY COMMITTEE GUEST LIST

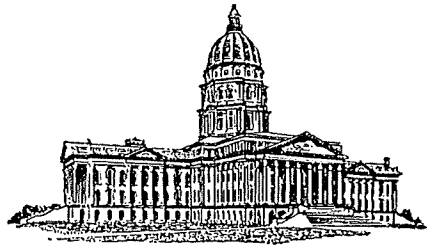
DATE: 3/9/2010

NAME	REPRESENTING
Natalie Edison	Kansas Judicial Council
Karen Arnold-Burger	Kan Child Brg
Sheri Smiley	Ks. Sec. of State
Richard Gannon	KPA
Lori Church	KAPCIC
Austin LaFreiere	Rep. Carl Holmes
David A. Corbin	KDOR
Michael Smith	AG's Office
Mr. Wots	Jud. Branch
Jeff Bottinborg	Pokinelli Skyles, P.C.
Patrick Vagekberg	Keerney and Assoc.
Jean Miller	CAPitol STRATEGIES
SAM X. BRUNER	Judicial Council
Christy Molzen	Judicial Council
Whitney Dawn	KS Bar Assn
JOE Molzen	KS Bar Assn
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Interstate Cooperation  
Kansas Statutes Annotated  
Editing and Publication  
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MEMORANDUM

To: Chairman Kinzer and members of the House Committee on Judiciary  
From: Matt Sterling, Assistant Revisor of Statutes  
Date: March 9, 2010  
Subject: Senate Bill No. 371

SB 371 amends K.S.A. 60-2006, which provides for recovery of attorney fees in actions to recover for property damage caused by the negligent operation of a motor vehicle. Under current law, a party can recover reasonable attorney fees for an action for property damage totaling less than \$7,500. SB 371 would double that amount, allowing a prevailing party to recover reasonable attorney fees if the property damage was less than \$15,000.



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BRANDY M. WHEELER

**TO: House Judiciary Committee**

**FROM: Kansas Judicial Council – Randy M. Hearrell**

**DATE: March 9, 2010**

**RE: 2010 SB 371 Relating to Civil Procedure and Amending K.S.A. 60-2006 which Concerns Attorney Fees Taxed as Costs in Certain Actions Involving Negligent Motor Vehicle Operation**

In 2009, the Legislature requested that the Judicial Council study 2008 SB 537 which contained three sections, each of which amended a civil procedure statute. The study of the bill was assigned to the Judicial Council's Civil Code Advisory Committee (the Committee members are listed at the end of this testimony) and that Committee's report was approved by the Judicial Council.

The Civil Code Advisory Committee recommended against enactment of SB 537 but, in reviewing the testimony on the bill by Independence attorney W. J. Fitzpatrick, the Committee noted that he suggested, as an alternative to adopting section 3 of SB 537, that the dollar amount contained in K.S.A. 60-2006 be increased.

The Judicial Council agrees with this suggestion. The limit in the statute was last changed in 1990 when it was increased from \$3,000 to \$7,500. The dollar amount contained in the statute has been changed three times since it was enacted in 1969. Given the length of time since the last increase, the increase in the consumer price index since that time (see the following table), and the increase in the cost and complexity of motor vehicle repair, the Judicial Council recommends adoption of which increases the amount in K.S.A. 60-2006 from \$7,500 to \$15,000.

House Judiciary

Date 3-9-10

Attachment # 2

**ENACTMENT OF AND AMENDMENTS TO K.S.A. 60-2006**

<u>Year</u>	<u>Limit</u>	<u>CPI</u>
1969	\$500	36.8
1977	\$750	61.0
1982	\$3,000	97.7
1990	\$7,500	131.6
2010	\$15,000 (proposed)	216.7 (January 2010)

**KANSAS JUDICIAL COUNCIL  
CIVIL CODE ADVISORY COMMITTEE**

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James M. Armstrong, Wichita;  
Hon. Terry L. Bullock, Topeka;  
Professor Robert C. Casad, Lawrence;  
Professor Jim Concannon, Topeka;  
Hon. Jerry G. Elliott, Topeka;  
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Secretary—  
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Kansas Commission on  
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Kansas Statutes Annotated  
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Legislative Information System

**Brief on Senate Bill 372**  
**Guardianship and Conservatorship Act**

Jason B. Long  
Assistant Revisor  
Office of Revisor of Statutes

March 9, 2010

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SB 372 makes amendments to the Act for Obtaining a Guardian or a Conservator, or Both (Act). First, the bill creates a new section of law which provides that orders establishing or governing a guardianship or conservatorship that are issued by a court in another state are to be given full faith and credit in Kansas unless doing so is a specific violation of Kansas law.

The bill then makes essentially the same amendment to four sections of the Act. These four sections (sections 2 through 5) each govern the filing of a petition for a guardian or conservator in a particular instance. For example, section 2 of the bill amends K.S.A. 59-3058, which governs the filing of a petition for a guardian or conservator for an adult with an impairment. Section 3 amends K.S.A. 59-3059, which governs the filing of a petition for a guardian or conservator for a minor.

The amendment would require that the petition include a statement of the places where the proposed ward or conservatee has lived during the last five years, and the names and current addresses of those people with whom the ward or conservatee lived during that same time period. This requirement would be added to the list of pleadings that must be in the petition when it is filed.





## KANSAS JUDICIAL COUNCIL

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### MEMORANDUM

**TO:** House Judiciary Committee  
**FROM:** Judicial Council – Hon. Sam K. Bruner  
**DATE:** March 9, 2010  
**RE:** 2010 SB 372

The Judicial Council decision to recommend 2010 SB 372 came about as a result of a study of a different bill, 2009 SB 235. Last year, Senator Tim Owens asked the Judicial Council to review SB 235, a bill that would enact the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA) in Kansas. The UAGPPJA is intended to address three main problems: multiple state jurisdiction, transfer of cases between states, and recognition and enforcement of guardianship and conservatorship orders between states.

The Council assigned the study to its Guardianship and Conservatorship Advisory Committee. The members of that Committee are:

**Hon. Sam K. Bruner**, Chairman, retired District Court Judge, Overland Park;  
**Hon. Richard T. Ballinger**, District Court Judge in 18<sup>th</sup> Judicial District, Derby;  
**Hon. Thomas H. Graber**, retired District Court Judge in 30<sup>th</sup> Judicial District, Wellington;  
**John H. House**, Attorney, Kansas Department of Social & Rehabilitative

House Judiciary

Date 3-9-10

Attachment # 4

Services, Topeka;

**Jean Krahn**, Executive Director of the Kansas Guardianship Program, Manhattan;

**Hon. Philip T. Kyle**, retired Magistrate Judge in 24<sup>th</sup> Judicial District, Jetmore;

**H. Philip Martin**, practicing attorney, Larned;

**Hon. David P. Mikesic**, retired District Court Judge in 29<sup>th</sup> Judicial District, Kansas City;

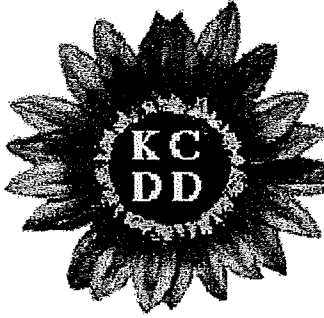
**Robert I. Nicholson, Jr.**, practicing attorney, Paola; and

**Dr. Jane Rhys**, Executive Director of the Kansas Council on Developmental Disabilities, Topeka.

The Committee reviewed the provisions of the UAGPPJA and compared them to existing Kansas law. The Committee believes that the Kansas Guardianship Act, K.S.A. 59-3050 *et seq.*, which was recodified in 2002, adequately addresses the issues covered by the UAGPPJA. However, the Committee identified two areas where the Kansas Guardianship Act could be improved.

The Committee recognizes that some institutions may be reluctant to recognize out-of-state guardianship and conservatorship orders. Although this should be already be happening, in practice, that may not always be the case. For this reason, the Committee recommends new section 1, which would require that out-of-state guardianship or conservatorship orders be given full faith and credit in Kansas, except when doing so would be in specific violation of Kansas law. New section 1 is intended as an alternative procedure to the transfer provisions of K.S.A. 59-3061.

In addition, the Committee recommends amending the petition sections of the Kansas Guardianship Act to require that a petitioner plead where and with whom a proposed ward or conservatee has resided for the last five years. This would give judges more information enabling them to ascertain when a case might involve “granny snatching” (the unauthorized removal or retention of an elderly person in order to pursue a guardianship in another state or avoid a guardianship in the elderly person’s home state). The language of the proposed amendments to the petition sections is patterned after K.S.A. 38-1356(a) of the Uniform Child Custody Jurisdiction and Enforcement Act.



# ***Kansas Council on Developmental Disabilities***

MARK PARKINSON, Governor  
KRISTIN FAIRBANK, Chairperson  
JANE RHYS, Ph. D., Executive Director  
jrhy@kcdd.org

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*"To ensure the opportunity to make choices regarding participation in society and quality of life for individuals with developmental disabilities"*

## **HOUSE JUDICIARY COMMITTEE**

**March 9, 2010**

Testimony in Regard to S.B. 372 AN ACT concerning guardianship and conservatorship; relating to orders and petitions.

Mr. Chairman, Members of the Committee, I am appearing today on behalf of the Kansas Council on Developmental Disabilities in support of S.B. 372.

The Kansas Council is federally mandated and federally funded under the Developmental Disabilities Assistance and Bill of Rights Act of 2000, we receive no state funds. It is composed of individuals who are appointed by the Governor, including representatives of the major agencies who provide services for individuals with developmental disabilities. At least 60 percent of the membership is composed of individuals who are persons with developmental disabilities or their immediate relatives. Our mission is to advocate for individuals with developmental disabilities to receive adequate supports to make choices about where they live, work, and learn.

I have served on the Kansas Judicial Council's Guardianship and Conservatorship Advisory Committee since 1998. Last year we were asked to review the Kansas Guardianship and Conservatorship regarding jurisdictional issues and information to be included in the petition for guardianship and/or conservatorship. Our recommendations are incorporated in S.B. 372. Specifically, we recommend that orders establishing and governing a guardianship or conservatorship, or both, issued by a court of competent jurisdiction of any other state, regardless of the specific terminology used in that state's laws, be given full faith and credit within Kansas. The only exception would be when doing so would be in specific violation of any Kansas law.

We also recommend that the name and address of any entity having custody or assumed responsibility for a proposed ward or conservatee and the circumstances that caused the person to come under the entity's care be included with the petition. This and the information in the petition for guardianship or conservatorship about where a proposed

House Judiciary

Date 3-9-10

Attachment # 5

lived during the previous five years, and the contact information for the persons with whom the ward or conservatee lived, are moved from subsection (b)(8) and to (b)(4) because it is logically related to the new language in (b)(3) (pleading where ward has lived for last 5 years).

We believe the above to be reasonable and would ask that you pass S.B. 372.

An amendment was proposed to the bill at the Senate Judiciary Committee's hearing. The amendment was not discussed with the Judicial Council's Committee. I would recommend that this Bill be passed as is and that any proposed changes be provided to the Advisory Committee for review and discussion. This would also provide the disability community stakeholders time for study and review.

Thank you and I would be happy to answer any questions.

Jane Rhys, Ph.D., Executive Director  
Kansas Council on Developmental Disabilities  
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March 9, 2010

The Honorable Lance Kinzer, Chair  
House Judiciary Committee

SB 372 –Kansas Act on Obtaining Guardianship, Conservatorship or Both

Good afternoon Chairman Kinzer and members of the House Judiciary Committee. My name is Robert Harvey and I serve as a member of the AARP National Policy Council (NPC). The council develops and makes public policy recommendations to the AARP Board of Directors regarding AARP's federal, state and local legislative and regulatory issues. In making public policy recommendations the NPC studies public policy options and considers opinions of members, guidance of staff and analysis from nationally-renowned policy experts. On behalf of our 345,000 Kansas members we thank you for this opportunity to express our written comments on SB 372.

AARP supports efforts to protect vulnerable older people, while ensuring that their rights are not violated in the legal process. Elder abuse can take many forms, and financial exploitation is a serious concern.

In guardianship proceedings (also known as “conservatorship”) a court oversees the transfer of authority for property or personal decision making (or both) when an individual is deemed incapable of managing his or her own affairs. Adults placed under guardianship, often referred to as wards or incapacitated individuals, may lose their basic civil liberties, such as the right to vote and marry and to make decisions about where to live, how to spend their money, and what type of medical treatment they should have. After a guardian has been appointed, courts are responsible for monitoring their performance and ensuring that incapacitated wards are protected and treated appropriately. To improve the quality of guardianship and prevent abuses, AARP recommends that standards and certification requirements for guardianship services programs be clearly

established. SB 372 is a positive movement in this direction by requiring that additional information be provided to the court in the petition to establish guardianship.

The provisions of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA) have been endorsed by AARP to address the issues regarding the state of jurisdiction with regard to guardianships. This act aims to provide uniformity and reduce conflicts among the states. One issue is the fact that it may be unclear which state has jurisdiction when the proposed ward has ties to more than one state. If another state has established a guardianship or conservatorship, acceptance of the proceeding by other states can save time for those who are serving as guardians and conservators, allowing them to make important decisions for their wards as quickly as possible.

We support the provisions of SB 372 that require that orders establishing and governing a guardianship or conservatorship, or both, issued by a court of competent jurisdiction of any other state, regardless of the specific terminology used in that state's laws, be given full faith and credit within Kansas, except when doing so would be in specific violation of any Kansas law.

AARP's members and the seniors of Kansas are at risk from Power of Attorney (POA) abuse. We support SB 372 as a vital step in reducing POA abuse. We respectfully request your support on this bill.

Robert Harvey



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BRANDY M. WHEELER

TO: Representative Lance Kinzer,  
Chair, House Judiciary Committee

From: Hon. Karen Arnold-Burger, Member, Municipal Court Advisory Committee,  
Kansas Judicial Council

Re: Testimony in support of 2010 Senate Bill 373

Date: Tuesday, March 9, 2010

### TESTIMONY OF THE JUDICIAL COUNCIL MUNICIPAL COURT ADVISORY COMMITTEE ON 2010 Senate Bill 373.

While preparing the 2009 supplement to the *Kansas Municipal Court Manual*, the Judicial Council Municipal Court Manual (MCM) Committee was asked by Mary Feighny, Attorney General's office, to review K.S.A. 12-4117 which requires an assessment in any municipal court case "charging a crime other than a nonmoving traffic violation, where there is a finding of guilty, a plea of guilty, a plea of no contest, forfeiture of bond or a diversion". In 2000, the MCM Committee proposed an amendment to this statute which resulted in the current language. That amendment was intended to clarify whether offenses such as parking violations or nonmoving traffic violations require payment of an assessment. However, there still seems to be some confusion as to which municipal ordinance violations require the payment of an assessment and Ms. Feighny asked the MCM Committee to see if it could further clarify the statute.

Since there is not a definition of "crime" in the municipal code, some jurisdictions have interpreted the term broadly to include all municipal ordinance violations while others have sought a definition elsewhere. The jurisdictions looking elsewhere have typically referred to the definition of "crime" in K.S.A. 21-3105 to determine whether the assessment should apply to the particular ordinance violated. K.S.A. 21-3105 defines a crime as "an act or omission defined by law and for

House Judiciary

Date 3-9-10

Attachment # 7

which, upon conviction, a sentence of death, imprisonment or fine, or both imprisonment and fine, is authorized or, in the case of a traffic infraction or a cigarette or tobacco infraction, a fine is authorized." Although most, if not all, municipal ordinance violations result in a fine and/or jail time, an Attorney General opinion issued in 1997 stated that municipal ordinances are not laws, and since they are not laws, violations of ordinances without a statutory counterpart are not crimes. See, AG Op. 97-31. Therefore, under the logic of that opinion, an ordinance violation for which there is no statutory counterpart would not require an assessment.

While the jurisdictions which interpret the word "crime" broadly have been charging the assessment on all ordinance violations, the jurisdictions following the statutory definition in K.S.A. 21-3105, in conjunction with the Attorney General's opinion, have only been charging the assessment on ordinance violations that have a statutory counterpart. Therefore, the MCM Committee once again reviewed and considered the text of K.S.A. 12-4117. The MCM Committee believes that the proposed amendment in 2010 Senate Bill 373 will further clarify and support the intent of the statute which is to require an assessment in any case charging a municipal ordinance violation except those charging nonmoving traffic violations such as parking violations.



SENATE BILL No. 439

By Committee on Judiciary

1-25

House Committee on Judiciary
SB 439 Balloon
Requested by: Secretary of State
Prepared by: J. Long

House Judiciary
Date 3-9-10
Attachment # 8

9 AN ACT concerning the secretary of state; relating to the Kansas register;
10 amending K.S.A. 75-431 and K.S.A. 2009 Supp. 75-430 and repealing
11 the existing sections; also repealing K.S.A. 75-432.

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

13 Section 1. K.S.A. 2009 Supp. 75-430 is hereby amended to read as
14 follows: 75-430. (a) The secretary of state shall compile, index and publish
15 a publication to be known as the Kansas register. Such register shall
16 contain:

17 (1) All acts of the legislature required to be published in the Kansas
18 register;

19 (2) all executive orders and directives of the governor which are re-
20 quired to be filed in the office of the secretary of state;

21 (3) summaries of all opinions of the attorney general interpreting acts
22 of the legislature as prepared by the office of the attorney general;

23 (4) notice of any public comment period on contemplated modifi-
24 cation of an existing rule and regulation, which notice shall contain the
25 information required by K.S.A. 77-421, and amendments thereto and, in
26 accordance with the provisions of article 4 of chapter 77 of the Kansas
27 Statutes Annotated, all notices of hearings on proposed administrative
28 rules and regulations and the full text of all administrative rules and reg-
29 ulations that have been adopted and filed with the secretary of state;

30 (5) all notices of hearings on proposed administrative rules and reg-
31 ulations required to be filed in the office of the secretary of state under
32 the provisions of article 4 of chapter 77 of the Kansas Statutes Annotated
33 and a summary of all proposed administrative rules and regulations to be
34 considered at such hearings together with the address of the state agency
35 from which a copy of the full text of the proposed rules and regulations
36 may be received;

37 (6) the full text of all administrative rules and regulations which have
38 been adopted and filed in accordance with the provisions of article 4 of
39 chapter 77 of the Kansas Statutes Annotated, except that the secretary of
40 state may publish a summary of any rule and regulation together with the
41 address of the state agency from which a copy of the full text of the
42 proposed rules and regulations may be received, if such rule and regu-

and amendments thereto,

1 ~~lation is lengthy and expensive to publish and otherwise available in pub-~~  
2 ~~lished form and a summary will, in the opinion of the secretary, properly~~  
3 ~~notify the public of the contents of such rule and regulation;~~

4 ~~(7)~~ a cumulative index of all administrative rules and regulations  
5 which have been adopted and filed in accordance with the provisions of  
6 article 4 of chapter 77 of the Kansas Statutes Annotated;

7 ~~(8)~~ (6) all notices of hearings of special legislative interim study com-  
8 mittees, descriptions of all prefiled bills and resolutions and descriptions  
9 of all bills and resolutions introduced in the legislature during any session  
10 of the legislature, and other legislative information which is approved for  
11 publication by the legislative coordinating council;

12 ~~(9)~~ (7) the hearings docket of the Kansas supreme court and the court  
13 of appeals;

14 ~~(10)~~ (8) summaries of all orders of the state court of tax appeals which  
15 have statewide application;

16 ~~(11)~~ (9) all advertisements for contracts for construction, repairs, im-  
17 provements or purchases by the state of Kansas or any agency thereof for  
18 which competitive bids are required; and

19 ~~(12)~~ (10) any other information which the secretary of state deems to  
20 be of sufficient interest to the general public to merit its publication or  
21 which is required by law to be published in the Kansas register.

22 (b) The secretary of state shall publish such register at regular inter-  
23 vals, but not less than weekly.

24 (c) *Each issue of the register shall contain a table of contents.*

25 (d) *A cumulative index to all information required by ~~this act~~ to be*  
26 *published during the previous year shall be published at least once each*  
27 *year.*

28 ~~(e)~~ (e) The secretary of state may omit from the register any infor-  
29 mation the publication of which the secretary deems cumbersome, ex-  
30 pensive, or otherwise inexpedient, if the information is made available in  
31 printed or processed form by the adopting agency on application for it,  
32 and if the register contains a notice stating the general subject matter of  
33 the information and the manner in which a copy of it may be obtained.

34 ~~(f)~~ (f) One copy of each issue of the register shall be made available  
35 without charge on request to each officer, board, commission, and de-  
36 partment of the state having statewide jurisdiction, to each member of  
37 the legislature, to each county clerk in the state, and to the supreme court,  
38 court of appeals and each district court.

39 ~~(g)~~ (g) The secretary of state shall make *paper* copies of the register  
40 available ~~to other persons on~~ upon payment of a fee to be fixed by the  
41 secretary of state under K.S.A. 75-433, and amendments thereto.

42 Sec. 2. K.S.A. 75-431 is hereby amended to read as follows: 75-431.

43 (a) *Each agency shall designate at least one individual to act as a liaison*

the full text of all administrative rules and regulations which have  
been adopted and filed in accordance with the provisions of  
article 4 of chapter 77 of the Kansas Statutes Annotated, and  
amendments thereto, except that the secretary of state may  
publish a summary of any rule and regulation together with the  
address of the state agency from which a copy of the full text of  
the proposed rules and regulations may be received, if such rule  
and regulation is lengthy and expensive to publish and otherwise  
available in published form and a summary will, in the opinion of  
the secretary, properly notify the public of the contents of such  
rule and regulation;

(6)

[and renumbering the remaining paragraphs accordingly]

, and amendments thereto

K.S.A. 75-430 through 75-434, and amendments thereto,

1 *through whom all required documents may be submitted to the secretary*  
 2 *of state for publication in the register.*

3 (b) Each agency or other entity shall ~~file submit~~ materials for publi-  
 4 cation in the Kansas register ~~by delivering~~ to the office of the secretary  
 5 of state ~~during normal working hours~~ two certified copies of the document  
 6 ~~to be filed, except that rules and regulations required to be filed in the~~  
 7 ~~office of the secretary of state under the provisions of article 4 of chapter~~  
 8 ~~77 of the Kansas Statutes Annotated shall be filed in triplicate. On receipt~~  
 9 ~~of a document required by this act to be published in the register, the~~  
 10 ~~secretary of state shall note the day and hour of filing on the certified~~  
 11 ~~copies. One certified copy of each filed document shall be maintained in~~  
 12 ~~original form by the secretary of state for six months after the publication~~  
 13 ~~of the document in the Kansas register in an electronic format. A copy of~~  
 14 ~~each document submitted for publication shall be maintained in original~~  
 15 ~~form by the secretary of state for six months after publication in the reg-~~  
 16 ~~ister. Upon otherwise complying with the provisions of this section, the~~  
 17 ~~secretary of state may destroy the original copies of all information sub-~~  
 18 ~~mitted for publication.~~

19 ~~(b)~~ (c) Administrative rules and regulations required to be filed in the  
 20 office of the secretary of state and published in the Kansas register shall  
 21 be filed under the provisions of article 4 of chapter 77 of the Kansas  
 22 Statutes Annotated. If there is a conflict, the official text of a rule and  
 23 regulation is the text on file with the secretary of state and not the text  
 24 published in the register or on file with the issuing agency.

, and amendments thereto

25 ~~(c)~~ (d) The secretary of state is hereby authorized to adopt rules and  
 26 regulations necessary to the effective administration of this act. Such rules  
 27 and regulations may include, but are not limited to, ~~rules prescribing~~  
 28 ~~paper size and~~ the format *and method of delivery* of documents required  
 29 to be published by this act. The secretary of state may refuse to accept  
 30 for filing and publication any document that does not substantially con-  
 31 form to the promulgated rules and regulations.

32 ~~(d) Upon otherwise complying with the provisions of this section, the~~  
 33 ~~secretary of state may destroy the original copies of all information sub-~~  
 34 ~~mitted for publication.~~

35 Sec. 3. K.S.A. 75-431 and 75-432 and K.S.A. 2009 Supp. 75-430 are  
 36 hereby repealed.

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

# SENATE BILL No. 369

By Committee on Judiciary

1-14

9 AN ACT repealing K.S.A. 2009 Supp. 45-221i; relating to open records/

10

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

12 Section 1. K.S.A. 2009 Supp. 45-221i is hereby repealed.

13 Sec. 2. This act shall take effect and be in force from and after its  
14 publication in the Kansas register.

; amending K.S.A. 60-3351 and K.S.A. 2009 Supp. 38-2309 and 45-229 an  
repealing the existing sections; also repealing K.S.A. 74-7405a and K.S.A. 2  
Supp. 45-221i

On and after July 1, 2010, K.S.A. 2009 Supp. 45-229 is hereby amended  
to read as follows: [see attached provisions of HB 2529, as am. by  
House Committee]  
Sec. 2. On and after July 1, 2010, K.S.A. 2009 Supp. 38-2309 is hereby  
amended to read as follows: [see attached provisions of HB 2529, as  
am. by House Committee]  
Sec. 3. On and after July 1, 2010, K.S.A. 60-3351 is hereby amended to  
read as follows: [see attached provisions of HB 2529, as am. by House  
Committee]  
Sec. 4. On and after July 1, 2010, K.S.A. 60-3351 and 74-7405a and  
K.S.A. 2009 38-2309 and 45-229 are hereby repealed.  
Sec. 5.  
  
Renumber remaining section accordingly.

House Judiciary  
Date **3-9-10**  
Attachment # **9**

Section 1. On and after July 1, 2010, K.S.A. 2009 Supp. 45-229 is hereby amended to read as follows: 45-229. (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) Subject to the provisions of subsection (h), 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 continue 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 July 15, 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;

(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.

(i) Exceptions contained in the following statutes as continued in existence in section 2 of chapter 126 of the 2005 Session Laws of Kansas and exceptions contained in the following statutes as certified by the revisor of statutes to the president

of the senate and the speaker of the house of representatives pursuant to subsection (e) of this section ~~on June 1, 2004~~ during 2009 are hereby continued in existence until July 1, 2015, at which time such exceptions shall expire: 1-401, 2-1202, 5-512, 9-1137, 9-1712, 9-2217, 10-630, 11-306, 12-189, 12-1,108, 12-1694, 12-1698, 12-2819, 12-4516, 16-715, 16a-2-304, 17-1312e, 17-2036, 17-2227, 17-5832, 17-7503, 17-7505, 17-7511, 17-7514, 17-76,139, 19-4321, 21-2511, 22-3711, 22-4707, 22-4909, 22a-243, 22a-244, 23-605, 23-9,312, 25-4161, 25-4165, 31-405, 34-251, ~~38-1508, 38-1520, 38-1565, 38-1609, 38-1610, 38-1618~~ 38-1664, 38-2212, 39-709b, 39-719e, 39-934, 39-1434, 39-1704, 40-222, 40-2,156, 40-2c20, 40-2c21, 40-2d20, 40-2d21, 40-409, 40-956, 40-1128, 40-2807, 40-3012, 40-3304, 40-3308, 40-3403b, 40-3421, 40-3613, 40-3805, 40-4205, 40-5301, 44-510j, 44-550b, 44-594, 44-635, 44-714, 44-817, 44-1005, 44-1019, subsections (a)(1) through (43), (a)(45) and (a)(46) of 45-221, 46-256, 46-259, 46-2201, 47-839, 47-844, 47-849, 47-1709, 48-1614, 49-406, 49-427, 55-1,102, 56-1a606, 56-1a607, 56a-1201, 56a-1202, 58-4114, 59-2135, 59-2802, 59-2979, 59-29b79, 60-3333, 60-3336, 60-3351, 65-102b, 65-118, 65-119, 65-153f, 65-170g, 65-177, 65-1,106, 65-1,113, 65-1,116, 65-1,157a, 65-1,163, 65-1,165, 65-1,168, 65-1,169, 65-1,171, 65-1,172, 65-436, 65-445, 65-507, 65-525, 65-531, 65-657, 65-1135, 65-1467, 65-1627, 65-1831, 65-2422d, 65-2438, 65-2836, 65-2839a, 65-2898a, 65-3015, 65-3447, 65-34,108, 65-34,126, 65-4019, ~~65-4608~~ 65-4922, 65-4925, 65-5602, 65-5603, 65-6002, 65-6003, 65-6004, 65-6010, 65-67a05, 65-6803, 65-6804, 66-101c, 66-117, 66-151, 66-1,190, 66-1,203, 66-1220a, 66-2010, 72-972a, 72-996, 72-4311, 72-4452, 72-5214, 72-53,106, 72-5427, 72-8903, 73-1228, 74-2424, 74-2433f, 74-4905, 74-4909, 74-50,131, 74-5515, 74-7308, 74-7338, ~~74-7405a~~ 74-8104, 74-8307, 74-8705, 74-8804, 74-9805, 74-99d05, 75-104, 75-712, 75-7b15, 75-1267, 75-2943, 75-4332, 75-4362, 75-5133, 75-5266, 75-53,105, 75-5665, 75-5666, 75-7310, 76-355, 76-359, 76-493, 76-12b11, 76-3305, 79-1119, ~~79-1437f, 79-157118~~ 79-3234, 79-3395, 79-3420, 79-3499, 79-34,113, 79-3614, 79-3657, 79-4301 and 79-5206.

(j) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) of this section on June 1, 2005, are hereby continued in existence until July 1, 2011, at which time such exceptions shall expire: 1-501, 9-1303, 12-4516a, 38-1692, 39-970, 40-4913, 65-525, 65-5117, 65-6016, 65-6017 and 74-7508.

(k) Exceptions contained in the following statutes as certified by the revisor of statutes to the president of the senate and the speaker of the house of representatives pursuant to subsection (e) during 2006, 2007 and 2008 are hereby continued in existence until July 1, 2014, at which time such exceptions shall expire: 8-240, 8-247, 8-255c, 8-1324, 8-1325, 12-17,150, 12-2001, 12-5332, 17-12a607, 38-1008, 38-2209, 40-5006, 40-5108, 41-2905, 41-2906, 44-706, 44-1518, subsections (a)(44), (45), (46) and (47) of 45-221, 56-1a610, 56a-1204, 65-1,243, 65-3239,

66-1233, 74-50,184, 74-8134, 74-99b06 and 82a-2210.

Sec. 2. On and after July 1, 2010, K.S.A. 2009 Supp. 38-2309 is hereby amended to read as follows: 38-2309. (a) Official file. The official file of proceedings pursuant to this code shall consist of the complaint, process, service of process, orders, writs and journal entries reflecting hearings held, judgments and decrees entered by the court. The official file shall be kept separate from other records of the court.

(b) The official file shall be open for public inspection, unless the judge determines that opening the official file for public inspection is not in the best interests of a juvenile who is less than 14 years of age. Information identifying victims and alleged victims of sex offenses, as defined in article 35 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, shall not be disclosed or open to public inspection under any circumstances. Nothing in this section shall prohibit the victim or alleged victim of any sex offense from voluntarily disclosing such victim's identity. An official file closed pursuant to this section and information identifying the victim or alleged victim of any sex offense shall be disclosed only to the following:

(1) A judge of the district court and members of the staff of the court designated by the judge;

(2) parties to the proceedings and their attorneys;

(3) any individual or any public or private agency or institution: (A) Having custody of the juvenile under court order; or (B) providing educational, medical or mental health services to the juvenile;

(4) the juvenile's court appointed special advocate;

(5) any placement provider or potential placement provider as determined by the commissioner or court services officer;

(6) law enforcement officers or county or district attorneys, or their staff, when necessary for the discharge of their official duties;

(7) the Kansas racing commission, upon written request of the commission chairperson, for the purpose provided by K.S.A. 74-8804, and amendments thereto, except that information identifying the victim or alleged victim of any sex offense shall not be disclosed pursuant to this subsection;

(8) juvenile intake and assessment workers;

(9) the commissioner;

(10) any other person when authorized by a court order, subject to any conditions imposed by the order; and

(11) the commission on judicial performance in the discharge of the commission's duties pursuant to article 32 of chapter 20 of the Kansas Statutes Annotated, and amendments thereto.

(c) Social file. Reports and information received by the court, other than the official file, shall be privileged and open to inspection only by attorneys for the parties, juvenile intake and assessment workers, court appointed special advocates and,



juvenile community corrections officers, the juvenile's guardian ad litem, if any, or upon order of a judge of the district court or appellate court. The reports shall not be further disclosed without approval of the court or by being presented as admissible evidence.

(d) Preservation of records. The Kansas state historical society shall be allowed to take possession for preservation in the state archives of any court records related to proceedings under the Kansas juvenile justice code or the revised Kansas juvenile justice code whenever such records otherwise would be destroyed. The Kansas state historical society shall make available for public inspection any unexpunged docket entry or official file in its custody concerning any juvenile 14 or more years of age at the time an offense is alleged to have been committed by the juvenile. No other such records in the custody of the Kansas state historical society shall be disclosed directly or indirectly to anyone for 70 years after creation of the records, except as provided in subsections (b) and (c). A judge of the district court may allow inspection for research purposes of any court records in the custody of the Kansas state historical society related to proceedings under the Kansas juvenile justice code or the revised Kansas juvenile justice code.

(e) Relevant information, reports and records, shall be made available to the department of corrections upon request, and a showing that the former juvenile has been convicted of a crime and placed in the custody of the secretary of corrections.

Sec. 3. On and after July 1, 2010, K.S.A. 60-3351 is hereby amended to read as follows: 60-3351. (a) Except as provided in K.S.A. 60-3352 and 60-3353, and amendments thereto, an insurance compliance self-evaluative audit document is privileged information and is not discoverable, or admissible as evidence in any legal action in any civil, criminal or administrative proceeding. The privilege created herein is a matter of substantive law of this state and is not merely a procedural matter governing civil or criminal procedures in the courts of this state.

(b) If any insurance company, person, or entity performs or directs the performance of an insurance compliance audit, an officer, employee or agent involved with the insurance compliance audit, or any consultant who is hired for the purpose of performing the insurance compliance audit, may not be examined in any civil, criminal or administrative proceeding as to the insurance compliance audit or any insurance compliance self-evaluative audit document, as defined in this section. This subsection (b) shall not apply if the privilege set forth in subsection (a) of this section is determined under K.S.A. 60-3352 and 60-3353, and amendments thereto, not to apply.

(c) Any insurance company may voluntarily submit, in connection with any examination conducted under chapter 40 of the Kansas Statutes Annotated, and amendments thereto, an insurance

compliance self-evaluative audit document to the commissioner as a confidential document in the same manner as provided in chapter 40 of the Kansas Statutes Annotated, and amendments thereto, for documents required to be provided to the commissioner in the course of an examination by the commissioner without waiving the privilege set forth in this section to which the insurance company would otherwise be entitled. Any provision in chapter 40 of the Kansas Statutes Annotated, and amendments thereto, permitting the commissioner to make confidential documents public or to grant the national association of insurance commissioners access to confidential documents shall not apply to the insurance compliance self-evaluative audit document voluntarily submitted by an insurance company. To the extent that the commissioner has the authority to compel the disclosure of an insurance compliance self-evaluative audit document under other provisions of applicable law, any such report furnished to the commissioner shall not be provided to any other persons or entities and shall be accorded the same confidentiality and other protections as provided above for voluntarily submitted documents. Any use of an insurance compliance self-evaluative audit document furnished as a result of a request of the commissioner under a claim of authority to compel disclosure shall be limited to determining whether or not any disclosed defects in an insurers' policies and procedures or inappropriate treatment of customers has been remedied or that an appropriate plan for their remedy is in place.

(1) Any insurance company's insurance compliance self-evaluative audit document submitted to the commissioner shall remain subject to all applicable statutory or common law privileges including, but not limited to, the work product doctrine, attorney-client privilege, or the subsequent remedial measures exclusion.

(2) Any compliance self-evaluative audit document so submitted and in the possession of the commissioner shall remain the property of the insurance company and shall not be subject to any disclosure or production under the Kansas open records act. The provision of this paragraph shall expire on July 1, ~~2010~~ 2015, unless the legislature reenacts such provision. The provision of this paragraph shall be reviewed by the legislature prior to July 1, ~~2010~~ 2015.

(d) Disclosure of an insurance compliance self-evaluative audit document to a governmental agency, whether voluntary or pursuant to compulsion of law, shall not constitute a waiver of the privilege set forth in subsection (a) with respect to any other persons or any other governmental agencies. Nothing in this act shall prohibit the division of post audit from having access to all insurance compliance self-evaluative audit documents in the custody of the commissioner.

Sec. 4. On and after July 1, 2010, K.S.A. 60-3351 and 74-7405a and K.S.A. 2009 Supp. 38-2309 and 45-229 are hereby repealed.

**SENATE BILL No. 369**

By Committee on Judiciary

1-14

9 AN ACT repealing K.S.A. 2009 Supp. 45-221i; relating to open records.

10

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

12 Section 1. K.S.A. 2009 Supp. 45-221i is hereby repealed.

13 Sec. 2. This act shall take effect and be in force from and after its  
14 publication in the Kansas register.

; amending K.S.A. 2009 Supp. 45-221 and repealing the exist  
section; also repealing K.S.A. 2009 Supp. 45-221i

On and after July 1, 2010, K.S.A. 2009 Supp. 45-221 is hereby amended  
to read as follows: [see attached provisions of Sub. for HB 2583]  
Sec. 2. On and after July 1, 2010, K.S.A. 2009 Supp. 45-221 is hereby  
repealed.  
Sec. 3.

Renumber remaining section accordingly.

House Judiciary  
Date **3-9-10**  
Attachment # **10**

Section 1. On and after July 1, 2010, K.S.A. 2009 Supp. 45-221 is hereby amended to read as follows: 45-221. (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 rule of the senate committee on confirmation oversight relating to information submitted to the committee pursuant to K.S.A. 2009 Supp. 75-4315d, and amendments thereto, 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 or rule of the senate committee on confirmation oversight relating to information submitted to the committee pursuant to K.S.A. 2009 Supp. 75-4315d, and amendments thereto, 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 or actual compensation employment contracts or employment-related contracts or agreements 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, except documents relating to the appointment of persons to fill a vacancy in an elected office.

(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, except if the donation is intended for or restricted to providing remuneration or personal tangible benefit to a named public officer or employee.

(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 as provided herein. 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, criminal investigation or prosecution;
- (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.

If a public record is discretionarily closed by a public agency pursuant to this subsection, the record custodian, upon request, shall provide a written citation to the specific provisions of paragraphs (A) through (F) that necessitate closure of that public record.

(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.

(44) The amount of franchise tax paid to the secretary of revenue or 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, other than criminal investigation 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; (B) transportation and sewer or wastewater treatment systems, facilities or



equipment; or (C) private property or persons, if the records are submitted to the agency. 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. Security measures include, but are not limited to, intelligence information, tactical plans, resource deployment and vulnerability assessments.

(46) Any information or material received by the register of deeds of a county from military discharge papers (DD Form 214). Such papers shall be disclosed: To the military dischargee; to such dischargee's immediate family members and lineal descendants; to such dischargee's heirs, agents or assigns; to the licensed funeral director who has custody of the body of the deceased dischargee; when required by a department or agency of the federal or state government or a political subdivision thereof; when the form is required to perfect the claim of military service or honorable discharge or a claim of a dependent of the dischargee; and upon the written approval of the commissioner of veterans affairs, to a person conducting research.

(47) Information that would reveal the location of a shelter or a safehouse or similar place where persons are provided protection from abuse or the name, address, location or other contact information of alleged victims of stalking, domestic violence or sexual assault.

(48) Policy information provided by an insurance carrier in accordance with subsection (h)(1) of K.S.A. 44-532, and amendments thereto. This exemption shall not be construed to preclude access to an individual employer's record for the purpose of verification of insurance coverage or to the department of labor for their business purposes.

(49) An individual's e-mail address, cell phone number and other contact information which has been given to the public agency for the purpose of public agency notifications or communications which are widely distributed to the public.

(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.

(g) Any confidential records or information relating to security measures provided or received under the provisions of subsection (a)(45) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.