

HOUSE BILL No. 2166

By Committee on Judiciary

Requested by Representative Humphries on behalf of the Office of Revisor of Statutes pursuant to K.S.A. 45-229

1-30

1 AN ACT concerning the open records act; relating to public records;
2 continuing in existence certain exceptions to the disclosure thereof;
3 amending K.S.A. 65-7616 and K.S.A. 2024 Supp. 45-229 and 48-962
4 and repealing the existing sections; also repealing K.S.A. 2024 Supp.
5 45-229d.
6

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

8 Section 1. K.S.A. 2024 Supp. 45-229 is hereby amended to read as
9 follows: 45-229. (a) It is the intent of the legislature that exceptions to
10 disclosure under the open records act shall be created or maintained only
11 if:

12 (1) The public record is of a sensitive or personal nature concerning
13 individuals;

14 (2) the public record is necessary for the effective and efficient
15 administration of a governmental program; or

16 (3) the public record affects confidential information.

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

26 (b) Subject to the provisions of subsections (g) and (h), any new
27 exception to disclosure or substantial amendment of an existing exception
28 shall expire on July 1 of the fifth year after enactment of the new
29 exception or substantial amendment, unless the legislature acts to continue
30 the exception. A law that enacts a new exception or substantially amends
31 an existing exception shall state that the exception expires at the end of
32 five years and that the exception shall be reviewed by the legislature
33 before the scheduled date.

34 (c) For purposes of this section, an exception is substantially

1 amended if the amendment expands the scope of the exception to include
2 more records or information. An exception is not substantially amended if
3 the amendment narrows the scope of the exception.

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

8 (e) In the year before the expiration of an exception, the revisor of
9 statutes shall certify to the president of the senate and the speaker of the
10 house of representatives, by July 15, the language and statutory citation of
11 each exception that will expire in the following year that meets the criteria
12 of an exception as defined in this section. Any exception that is not
13 identified and certified to the president of the senate and the speaker of the
14 house of representatives is not subject to legislative review and shall not
15 expire. If the revisor of statutes fails to certify an exception that the revisor
16 subsequently determines should have been certified, the revisor shall
17 include the exception in the following year's certification after that
18 determination.

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

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

- 26 (1) Is required by federal law;
- 27 (2) applies solely to the legislature or to the state court system;
- 28 (3) has been reviewed and continued in existence twice by the
29 legislature;
- 30 (4) has been reviewed and continued in existence by the legislature
31 during the 2013 legislative session and thereafter; or
- 32 (5) is a report of the results of an audit conducted by the United
33 States cybersecurity and infrastructure security agency.

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

- 36 (A) What specific records are affected by the exception;
- 37 (B) whom does the exception uniquely affect, as opposed to the
38 general public;
- 39 (C) what is the identifiable public purpose or goal of the exception;
- 40 (D) whether the information contained in the records may be obtained
41 readily by alternative means and how it may be obtained;
- 42 (2) an exception may be created or maintained only if it serves an
43 identifiable public purpose and may be no broader than is necessary to

1 meet the public purpose it serves. An identifiable public purpose is served
 2 if the legislature finds that the purpose is sufficiently compelling to
 3 override the strong public policy of open government and cannot be
 4 accomplished without the exception and if the exception:

5 (A) Allows the effective and efficient administration of a
 6 governmental program that would be significantly impaired without the
 7 exception;

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

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

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

25 (i) (1) Exceptions contained in the following statutes as continued in
 26 existence in section 2 of chapter 126 of the 2005 Session Laws of Kansas
 27 and that have been reviewed and continued in existence twice by the
 28 legislature as provided in subsection (g) are hereby continued in existence:
 29 1-401, 2-1202, 5-512, 9-1137, 9-1712, 9-2217, 10-630, 12-189, 12-1,108,
 30 12-1694, 12-1698, 12-2819, 12-4516, 16-715, 16a-2-304, 17-1312e, 17-
 31 2227, 17-5832, 17-7511, 17-76,139, 19-4321, 21-2511, 22-3711, 22-4707,
 32 22-4909, 22a-243, 22a-244, 23-605, 23-9,312, 25-4161, 25-4165, 31-405,
 33 34-251, 38-2212, 39-709b, 39-719e, 39-934, 39-1434, 39-1704, 40-222,
 34 40-2,156, 40-2c20, 40-2c21, 40-2d20, 40-2d21, 40-409, 40-956, 40-1128,
 35 40-2807, 40-3012, 40-3304, 40-3308, 40-3403b, 40-3421, 40-3613, 40-
 36 3805, 40-4205, 44-510j, 44-550b, 44-594, 44-635, 44-714, 44-817, 44-
 37 1005, 44-1019, 45-221(a)(1) through (43), 46-256, 46-259, 46-2201, 47-
 38 839, 47-844, 47-849, 47-1709, 48-1614, 49-406, 49-427, 55-1,102, 58-
 39 4114, 59-2135, 59-2802, 59-2979, 59-29b79, 60-3333, 60-3336, 65-102b,
 40 65-118, 65-119, 65-153f, 65-170g, 65-177, 65-1,106, 65-1,113, 65-1,116,
 41 65-1,157a, 65-1,163, 65-1,165, 65-1,168, 65-1,169, 65-1,171, 65-1,172,
 42 65-436, 65-445, 65-507, 65-525, 65-531, 65-657, 65-1135, 65-1467, 65-
 43 1627, 65-1831, 65-2422d, 65-2438, 65-2836, 65-2839a, 65-2898a, 65-

1 3015, 65-3447, 65-34,108, 65-34,126, 65-4019, 65-4922, 65-4925, 65-
2 5602, 65-5603, 65-6002, 65-6003, 65-6004, 65-6010, 65-67a05, 65-6803,
3 65-6804, 66-101c, 66-117, 66-151, 66-1,190, 66-1,203, 66-1220a, 66-
4 2010, 72-2232, 72-3438, 72-6116, 72-6267, 72-9934, 73-1228, 74-2424,
5 74-2433f, 74-32,419, 74-4905, 74-4909, 74-50,131, 74-5515, 74-7308, 74-
6 7338, 74-8104, 74-8307, 74-8705, 74-8804, 74-9805, 75-104, 75-712, 75-
7 7b15, 75-1267, 75-2943, 75-4332, 75-4362, 75-5133, 75-5266, 75-5665,
8 75-5666, 75-7310, 76-355, 76-359, 76-493, 76-12b11, 76-12c03, 76-3305,
9 79-1119, 79-1437f, 79-3234, 79-3395, 79-3420, 79-3499, 79-34,113, 79-
10 3614, 79-3657, 79-4301 and 79-5206.

11 (2) Exceptions contained in the following statutes as certified by the
12 revisor of statutes to the president of the senate and the speaker of the
13 house of representatives pursuant to subsection (e) and that have been
14 reviewed during the 2015 legislative session and continued in existence by
15 the legislature as provided in subsection (g) are hereby continued in
16 existence: 17-2036, 40-5301, 45-221(a)(45), (46) and (49), 48-16a10, 58-
17 4616, 60-3351, 72-3415, 74-50,217 and 75-53,105.

18 (j) (1) Exceptions contained in the following statutes as continued in
19 existence in section 1 of chapter 87 of the 2006 Session Laws of Kansas
20 and that have been reviewed and continued in existence twice by the
21 legislature as provided in subsection (g) are hereby continued in existence:
22 1-501, 9-1303, 12-4516a, 39-970, 65-525, 65-5117, 65-6016, 65-6017 and
23 74-7508.

24 (2) Exceptions contained in the following statutes as certified by the
25 revisor of statutes to the president of the senate and the speaker of the
26 house of representatives pursuant to subsection (e) during 2015 and that
27 have been reviewed during the 2016 legislative session are hereby
28 continued in existence: 12-5611, 22-4906, 22-4909, 38-2310, 38-2311, 38-
29 2326, 40-955, 44-1132, 45-221(a)(10)(F) and (a)(50), 60-3333, 65-4a05,
30 65-445(g), 65-6154, 71-218, 75-457, 75-712c, 75-723 and 75-7c06.

31 (k) Exceptions contained in the following statutes as certified by the
32 revisor of statutes to the president of the senate and the speaker of the
33 house of representatives pursuant to subsection (e) and that have been
34 reviewed during the 2014 legislative session and continued in existence by
35 the legislature as provided in subsection (g) are hereby continued in
36 existence: 1-205, 2-2204, 8-240, 8-247, 8-255c, 8-1324, 8-1325, 12-
37 17,150, 12-2001, 17-12a607, 38-1008, 38-2209, 40-5006, 40-5108, 41-
38 2905, 41-2906, 44-706, 44-1518, 45-221(a)(44), (45), (46), (47) and (48),
39 50-6a11, 65-1,243, 65-16,104, 65-3239, 74-50,184, 74-8134, 74-99b06,
40 77-503a and 82a-2210.

41 (l) Exceptions contained in the following statutes as certified by the
42 revisor of statutes to the president of the senate and the speaker of the
43 house of representatives pursuant to subsection (e) during 2016 and that

1 have been reviewed during the 2017 legislative session are hereby
2 continued in existence: 12-5711, 21-2511, 22-4909, 38-2313, 45-221(a)
3 (51) and (52), 65-516, 65-1505, 74-2012, 74-5607, 74-8745, 74-8752, 74-
4 8772, 75-7d01, 75-7d05, 75-5133, 75-7427 and 79-3234.

5 (m) Exceptions contained in the following statutes as certified by the
6 revisor of statutes to the president of the senate and the speaker of the
7 house of representatives pursuant to subsection (e) during 2012 and that
8 have been reviewed during the 2013 legislative session and continued in
9 existence by the legislature as provided in subsection (g) are hereby
10 continued in existence: 12-5811, 40-222, 40-223j, 40-5007a, 40-5009a,
11 40-5012a, 65-1685, 65-1695, 65-2838a, 66-1251, 66-1805, 72-8268, 75-
12 712 and 75-5366.

13 (n) Exceptions contained in the following statutes as certified by the
14 revisor of statutes to the president of the senate and the speaker of the
15 house of representatives pursuant to subsection (e) and that have been
16 reviewed during the 2018 legislative session are hereby continued in
17 existence: 9-513c(c)(2), 39-709, 45-221(a)(26), (53) and (54), 65-6832,
18 65-6834, 75-7c06 and 75-7c20.

19 (o) Exceptions contained in the following statutes as certified by the
20 revisor of statutes to the president of the senate and the speaker of the
21 house of representatives pursuant to subsection (e) that have been
22 reviewed during the 2019 legislative session are hereby continued in
23 existence: 21-2511(h)(2), 21-5905(a)(7), 22-2302(b) and (c), 22-2502(d)
24 and (e), 40-222(k)(7), 44-714(e), 45-221(a)(55), 46-1106(g) regarding 46-
25 1106(i), 65-2836(i), 65-2839a(c), 65-2842(d), 65-28a05(n), article 6(d) of
26 65-6230, 72-6314(a) and 74-7047(b).

27 (p) Exceptions contained in the following statutes as certified by the
28 revisor of statutes to the president of the senate and the speaker of the
29 house of representatives pursuant to subsection (e) that have been
30 reviewed during the 2020 legislative session are hereby continued in
31 existence: 38-2310(c), 40-409(j)(2), 40-6007(a), 45-221(a)(52), 46-1129,
32 59-29a22(b)(10) and 65-6747.

33 (q) Exceptions contained in the following statutes as certified by the
34 revisor of statutes to the president of the senate and the speaker of the
35 house of representatives pursuant to subsection (e) that have been
36 reviewed during the 2021 legislative session are hereby continued in
37 existence: 22-2302(c)(4)(J) and (c)(6)(B), 22-2502(e)(4)(J) and (e)(6)(B)
38 and 65-6111(d)(4).

39 (r) Exceptions contained in the following statutes as certified by the
40 revisor of statutes to the president of the senate and the speaker of the
41 house of representatives pursuant to subsection (e) that have been
42 reviewed during the 2023 legislative session are hereby continued in
43 existence: 2-3902 and 66-2020.

1 (s) *Exceptions contained in the following statutes as certified by the*
2 *revisor of statutes to the president of the senate and the speaker of the*
3 *house of representatives pursuant to subsection (e) that have been*
4 *reviewed during the 2024 legislative session are hereby continued in*
5 *existence: 2-3906, 2-3907, 41-511, 50-6,109a and 74-50,227.*

6 (t) *Exceptions contained in the following statutes as certified by the*
7 *revisor of statutes to the president of the senate and the speaker of the*
8 *house of representatives pursuant to subsection (e) that have been*
9 *reviewed during the 2025 legislative session are hereby continued in*
10 *existence: 48-962 and 65-7616.*

11 Sec. 2. K.S.A. 2024 Supp. 48-962 is hereby amended to read as
12 follows: 48-962. (a) During a state of disaster emergency declared under
13 K.S.A. 48-924, and amendments thereto, related to the COVID-19 public
14 health emergency, each local health officer shall work with first responder
15 agencies operating in the county to establish a method to share information
16 indicating where a person testing positive for or under quarantine or
17 isolation due to COVID-19 resides or can be expected to be present. Such
18 information shall:

19 (1) Include the address for such person and, as applicable, the
20 duration of the quarantine, isolation or expected recovery period for such
21 person as determined by the local health officer; and

22 (2) only be used for the purpose of allowing the first responders to be
23 alert to the need for utilizing appropriate personal protective equipment
24 during the response activity.

25 (b) The information described in subsection (a) shall be provided to
26 the 911 call center for the area serving the address provided. The 911 call
27 center shall disseminate the information only to first responders
28 responding to the listed address.

29 (c) All information provided or disseminated under this section shall
30 not be a public record and shall not be subject to the Kansas open records
31 act, K.S.A. 45-215 et seq., and amendments thereto. ~~The provisions of this~~
32 ~~subsection shall expire on July 1, 2025, unless the legislature reviews and~~
33 ~~reenacts this provision pursuant to K.S.A. 45-229, and amendments~~
34 ~~thereto.~~

35 Sec. 3. K.S.A. 65-7616 is hereby amended to read as follows: 65-
36 7616. (a) A licensee's license may be revoked, suspended, limited or
37 placed on probation, or the licensee may be publicly censured, or an
38 application for a license or for reinstatement of a license may be denied
39 upon a finding of the existence of any of the following grounds:

40 (1) The licensee has committed an act of unprofessional conduct as
41 defined by rules and regulations adopted by the board;

42 (2) the licensee has committed fraud or misrepresentation in applying
43 for or securing an original, renewal or reinstated license;

- 1 (3) the licensee has committed an act of professional incompetency as
2 defined by rules and regulations adopted by the board;
- 3 (4) the licensee has been convicted of a felony;
- 4 (5) the licensee has violated any provision of the acupuncture practice
5 act;
- 6 (6) the licensee has violated any lawful order or rule and regulation of
7 the board;
- 8 (7) the licensee has been found to be mentally ill, disabled, not guilty
9 by reason of insanity, not guilty because the licensee suffers from a mental
10 disease or defect or incompetent to stand trial by a court of competent
11 jurisdiction;
- 12 (8) the licensee has failed to report to the board any adverse action
13 taken against the licensee by another state or licensing jurisdiction, a peer
14 review body, a health care facility, a professional association or society, a
15 governmental agency, a law enforcement agency or a court for acts or
16 conduct similar to acts or conduct which would constitute grounds for
17 disciplinary action under this section;
- 18 (9) the licensee has surrendered a license or authorization to practice
19 as an acupuncturist in another state or jurisdiction, has agreed to a
20 limitation or restriction of privileges at any medical care facility or has
21 surrendered the licensee's membership on any professional staff or in any
22 professional association or society while under investigation for acts or
23 conduct similar to acts or conduct which would constitute grounds for
24 disciplinary action under this section;
- 25 (10) the licensee has failed to report to the board the surrender of the
26 licensee's license or authorization to practice as an acupuncturist in another
27 state or jurisdiction or the surrender of the licensee's membership on any
28 professional staff or in any professional association or society while under
29 investigation for acts or conduct similar to acts or conduct which would
30 constitute grounds for disciplinary action under this section;
- 31 (11) the licensee has an adverse judgment, award or settlement
32 rendered against the licensee resulting from a medical liability claim
33 related to acts or conduct similar to acts or conduct which would constitute
34 grounds for disciplinary action under this section;
- 35 (12) the licensee has failed to report to the board any adverse
36 judgment, settlement or award against the licensee resulting from a
37 medical malpractice liability claim related to acts or conduct similar to acts
38 or conduct which would constitute grounds for disciplinary action under
39 this section; or
- 40 (13) the licensee's ability to practice with reasonable skill and safety
41 to patients is impaired by reason of physical or mental illness, or use of
42 alcohol, drugs or controlled substances. When reasonable suspicion of
43 impairment exists, the board may take action in accordance with K.S.A.

1 65-2842, and amendments thereto. All information, reports, findings and
2 other records relating to impairment shall be confidential and not subject
3 to discovery by or release to any person or entity outside of a board
4 proceeding. ~~This provision regarding confidentiality shall expire on July 1,~~
5 ~~2022, unless the legislature reviews and reenacts such provision pursuant~~
6 ~~to K.S.A. 45-229, and amendments thereto, prior to July 1, 2022.~~

7 (b) The denial, refusal to renew, suspension, limitation, probation or
8 revocation of a license or other sanction may be ordered by the board upon
9 a finding of a violation of the acupuncture practice act. All administrative
10 proceedings conducted pursuant to this act shall be in accordance with the
11 Kansas administrative procedure act and shall be reviewable in accordance
12 with the Kansas judicial review act.

13 (c) This section shall take effect on and after July 1, 2017.

14 Sec. 4. K.S.A. 65-7616 and K.S.A. 2024 Supp. 45-229, 45-229d and
15 48-962 are hereby repealed.

16 Sec. 5. This act shall take effect and be in force from and after its
17 publication in the statute book.