

HOUSE BILL No. 2721

By Committee on Judiciary

Requested by John Goodyear on behalf of the League of Kansas Municipalities

2-5

1 AN ACT concerning the open records act; relating to permissible
2 exceptions to disclosure; modifying an exception to the open records
3 act for software programs for electronic data processing and
4 documentation thereof; eliminating a requirement that a public agency
5 maintain a register accessible to the public that describes information
6 such agency maintains on computer facilities and the form that such
7 information can be made available using existing computer programs;
8 amending K.S.A. 2025 Supp. 45-221 and repealing the existing section.
9

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

11 Section 1. K.S.A. 2025 Supp. 45-221 is hereby amended to read as
12 follows: 45-221. (a) Except to the extent disclosure is otherwise required
13 by law, a public agency shall not be required to disclose:

14 (1) Records the disclosure of which is specifically prohibited or
15 restricted by federal law, state statute or rule of the Kansas supreme court
16 or rule of the senate committee on confirmation oversight relating to
17 information submitted to the committee pursuant to K.S.A. 75-4315d, and
18 amendments thereto, or the disclosure of which is prohibited or restricted
19 pursuant to specific authorization of federal law, state statute or rule of the
20 Kansas supreme court or rule of the senate committee on confirmation
21 oversight relating to information submitted to the committee pursuant to
22 K.S.A. 75-4315d, and amendments thereto, to restrict or prohibit
23 disclosure.

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

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

28 (4) Personnel records, performance ratings or individually identifiable
29 records pertaining to employees or applicants for employment, except that
30 this exemption shall not apply to the names, positions, salaries or actual
31 compensation employment contracts or employment-related contracts or
32 agreements and lengths of service of officers and employees of public
33 agencies once they are employed as such.

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

1 (6) Letters of reference or recommendation pertaining to the character
2 or qualifications of an identifiable individual, except documents relating to
3 the appointment of persons to fill a vacancy in an elected office.

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

7 (8) Information that would reveal the identity of an individual who
8 lawfully makes a donation to a public agency, if anonymity of the donor is
9 a condition of the donation, except if the donation is intended for or
10 restricted to providing remuneration or personal tangible benefit to a
11 named public officer or employee.

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

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

20 (A) Is in the public interest;

21 (B) would not interfere with any prospective law enforcement action,
22 criminal investigation or prosecution;

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

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

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

28 (F) would not reveal the name, address, phone number or any other
29 information that specifically and individually identifies the victim of any
30 sexual offense described in article 35 of chapter 21 of the Kansas Statutes
31 Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas
32 Statutes Annotated, and amendments thereto.

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

37 (11) Records of agencies involved in administrative adjudication or
38 civil litigation, compiled in the process of detecting or investigating
39 violations of civil law or administrative rules and regulations, if:

40 (A) Disclosure would interfere with a prospective administrative
41 adjudication or civil litigation;

42 (B) disclosure would reveal the identity of a confidential source or
43 undercover agent; or

1 (C) the investigation is formally closed and the agency determines
2 that no violation occurred.

3 (12) Records of emergency or security information or procedures of a
4 public agency, if disclosure would jeopardize public safety, including
5 records of cybersecurity plans, cybersecurity assessments and
6 cybersecurity vulnerabilities or procedures related to cybersecurity plans,
7 cybersecurity assessments and cybersecurity vulnerabilities, or plans,
8 drawings, specifications or related information for any building or facility
9 that is used for purposes requiring security measures in or around the
10 building or facility or that is used for the generation or transmission of
11 power, water, fuels or communications, if disclosure would jeopardize
12 security of the public agency, building or facility.

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

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

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

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

28 ~~(A) The information that the agency maintains on computer facilities;~~
29 ~~and~~

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

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

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

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

43 (20) Notes, preliminary drafts, research data in the process of

1 analysis, unfunded grant proposals, memoranda, recommendations or
2 other records in which opinions are expressed or policies or actions are
3 proposed, except that this exemption shall not apply when such records are
4 publicly cited or identified in an open meeting or in an agenda of an open
5 meeting.

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

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

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

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

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

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

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

24 (24) Records that are compiled for census or research purposes and
25 which pertain to identifiable individuals.

26 (25) Records that represent and constitute the work product of an
27 attorney.

28 (26) Records of a utility or other public service pertaining to
29 individually identifiable residential customers of the utility or service.

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

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

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

36 (A) The name; photograph and other identifying information;
37 sentence data; parole eligibility date; custody or supervision level;
38 disciplinary record; supervision violations; conditions of supervision,
39 excluding requirements pertaining to mental health or substance abuse
40 counseling; location of facility where incarcerated or location of parole
41 office maintaining supervision and address of a releasee whose crime was
42 committed after the effective date of this act shall be subject to disclosure
43 to any person other than another inmate or releasee, except that the

1 disclosure of the location of an inmate transferred to another state pursuant
2 to the interstate corrections compact shall be at the discretion of the
3 secretary of corrections;

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

8 (C) the information provided to the law enforcement agency pursuant
9 to the sex offender registration act, K.S.A. 22-4901 et seq., and
10 amendments thereto, shall be subject to disclosure to any person, except
11 that the name, address, telephone number or any other information that
12 specifically and individually identifies the victim of any offender required
13 to register as provided by the Kansas offender registration act, K.S.A. 22-
14 4901 et seq., and amendments thereto, shall not be disclosed; and

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

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

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

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

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

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

39 (35) Any report or record that is made pursuant to K.S.A. 65-4922,
40 65-4923 or 65-4924, and amendments thereto, and that is privileged
41 pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.

42 (36) Information that would reveal the precise location of an
43 archeological site.

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

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

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

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

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

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

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

25 (44) The amount of franchise tax paid to the secretary of revenue or
26 the secretary of state by domestic corporations, foreign corporations,
27 domestic limited liability companies, foreign limited liability companies,
28 domestic limited partnership, foreign limited partnership, domestic limited
29 liability partnerships and foreign limited liability partnerships.

30 (45) Records, other than criminal investigation records, the disclosure
31 of which would pose a substantial likelihood of revealing security
32 measures that protect:

33 (A) Systems, facilities or equipment used in the production,
34 transmission or distribution of energy, water or communications services;

35 (B) transportation and sewer or wastewater treatment systems,
36 facilities or equipment; or

37 (C) private property or persons, if the records are submitted to the
38 agency. For purposes of this paragraph, security means measures that
39 protect against criminal acts intended to intimidate or coerce the civilian
40 population, influence government policy by intimidation or coercion or to
41 affect the operation of government by disruption of public services, mass
42 destruction, assassination or kidnapping. Security measures include, but
43 are not limited to, intelligence information, tactical plans, resource

1 deployment and vulnerability assessments.

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

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

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

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

26 (50) Information provided by providers to the local collection point
27 administrator or to the 911 coordinating council pursuant to the Kansas
28 911 act upon request of the party submitting such records.

29 (51) Records of a public agency on a public website that are
30 searchable by a keyword search and identify the home address or home
31 ownership of: A law enforcement officer as defined in K.S.A. 21-5111, and
32 amendments thereto; a parole officer; a probation officer; a court services
33 officer; a community correctional services officer; a local correctional
34 officer or local detention officer; a federal judge; a justice of the supreme
35 court; a judge of the court of appeals; a district judge; a district magistrate
36 judge; a municipal judge; a presiding officer who conducts hearings
37 pursuant to the Kansas administrative procedure act; an administrative law
38 judge employed by the office of administrative hearings; a member of the
39 state board of tax appeals; an administrative law judge who conducts
40 hearings pursuant to the workers compensation act; a member of the
41 workers' compensation appeals board; the United States attorney for the
42 district of Kansas; an assistant United States attorney; a special assistant
43 United States attorney; the attorney general; an assistant attorney general;

1 a special assistant attorney general; a county attorney; an assistant county
2 attorney; a special assistant county attorney; a district attorney; an assistant
3 district attorney; a special assistant district attorney; a city attorney; an
4 assistant city attorney; or a special assistant city attorney. Such person
5 shall file with the custodian of such record a request to have such person's
6 identifying information restricted from public access on such public
7 website. Within 10 business days of receipt of such requests, the public
8 agency shall restrict such person's identifying information from such
9 public access. Such restriction shall expire after five years and such person
10 may file with the custodian of such record a new request for restriction at
11 any time.

12 (52) Records of a public agency that would disclose the name, home
13 address, zip code, e-mail address, phone number or cell phone number or
14 other contact information for any person licensed to carry concealed
15 handguns or of any person who enrolled in or completed any weapons
16 training in order to be licensed or has made application for such license
17 under the personal and family protection act, K.S.A. 75-7c01 et seq., and
18 amendments thereto, shall not be disclosed unless otherwise required by
19 law.

20 (53) Records of a utility concerning information about cyber security
21 threats, attacks or general attempts to attack utility operations provided to
22 law enforcement agencies, the state corporation commission, the federal
23 energy regulatory commission, the department of energy, the southwest
24 power pool, the North American electric reliability corporation, the federal
25 communications commission or any other federal, state or regional
26 organization that has a responsibility for the safeguarding of
27 telecommunications, electric, potable water, waste water disposal or
28 treatment, motor fuel or natural gas energy supply systems.

29 (54) Records of a public agency containing information or reports
30 obtained and prepared by the office of the state bank commissioner in the
31 course of licensing or examining a person engaged in money transmission
32 business pursuant to K.S.A. 9-508 et seq., and amendments thereto, shall
33 not be disclosed except pursuant to K.S.A. 9-513c, and amendments
34 thereto, or unless otherwise required by law.

35 (55) Records of a public agency that contain captured license plate
36 data or that pertain to the location of an automated license plate
37 recognition system.

38 (56) Records of a public agency that contain material that is obscene
39 as defined in K.S.A. 21-6401, and amendments thereto.

40 (b) Except to the extent disclosure is otherwise required by law or as
41 appropriate during the course of an administrative proceeding or on appeal
42 from agency action, a public agency or officer shall not disclose financial
43 information of a taxpayer that may be required or requested by a county

1 appraiser or the director of property valuation to assist in the determination
2 of the value of the taxpayer's property for ad valorem taxation purposes; or
3 any financial information of a personal nature required or requested by a
4 public agency or officer, including a name, job description or title
5 revealing the salary or other compensation of officers, employees or
6 applicants for employment with a firm, corporation or agency, except a
7 public agency. Nothing contained herein shall be construed to prohibit the
8 publication of statistics, so classified as to prevent identification of
9 particular reports or returns and the items thereof.

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

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

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

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

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

38 Sec. 2. K.S.A. 2025 Supp. 45-221 is hereby repealed.

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