

HOUSE BILL No. 2684

By Committee on Government Efficiency

2-8

1 AN ACT ~~repealing K.S.A. 74-7402, 74-7403, 74-7404, 74-7406 and 74-~~
2 ~~7407; concerning the ombudsman of corrections; relating to the repeal~~
3 ~~of outdated sections concerning the ombudsman of corrections;~~
4 ~~amending K.S.A. 2011 Supp. 45-221 and repealing the existing~~
5 ~~section; also repealing K.S.A. 74-7402, 74-7403, 74-7404, 74-7406~~
6 ~~and 74-7407.~~

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

9 **Section 1.** *K.S.A. 2011 Supp. 45-221 is hereby amended to read as*
10 *follows: 45-221. (a) Except to the extent disclosure is otherwise required*
11 *by law, a public agency shall not be required to disclose:*

12 *(1) Records the disclosure of which is specifically prohibited or*
13 *restricted by federal law, state statute or rule of the Kansas supreme*
14 *court or rule of the senate committee on confirmation oversight relating*
15 *to information submitted to the committee pursuant to K.S.A. 2011 Supp.*
16 *75-4315d, and amendments thereto, or the disclosure of which is*
17 *prohibited or restricted pursuant to specific authorization of federal law,*
18 *state statute or rule of the Kansas supreme court or rule of the senate*
19 *committee on confirmation oversight relating to information submitted*
20 *to the committee pursuant to K.S.A. 2011 Supp. 75-4315d, and*
21 *amendments thereto, to restrict or prohibit disclosure.*

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

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

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

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

35 *(6) Letters of reference or recommendation pertaining to the*
36 *character or qualifications of an identifiable individual, except*

1 *documents relating to the appointment of persons to fill a vacancy in an*
2 *elected office.*

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

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

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

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

20 *(A) Is in the public interest;*

21 *(B) would not interfere with any prospective law enforcement*
22 *action, 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;*
28 *and*

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

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

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

1 (12) *Records of emergency or security information or procedures of*
2 *a public agency, or plans, drawings, specifications or related*
3 *information for any building or facility which is used for purposes*
4 *requiring security measures in or around the building or facility or*
5 *which is used for the generation or transmission of power, water, fuels*
6 *or communications, if disclosure would jeopardize security of the public*
7 *agency, building or facility.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (24) *Records which are compiled for census or research purposes*
22 *and which pertain to identifiable individuals.*

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

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

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*
33 *all 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*
42 *was committed after the effective date of this act shall be subject to*
43 *disclosure to any person other than another inmate or releasee, except*

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

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

8 *(C) the information provided to the law enforcement agency*
9 *pursuant 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*
12 *which specifically and individually identifies the victim of any offender*
13 *required to register as provided by the Kansas offender registration act,*
14 *K.S.A. 22-4901 et seq., and amendments thereto, shall not be disclosed;*
15 *and*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 ***(45) Records, other than criminal investigation records, the***
34 ***disclosure of which would pose a substantial likelihood of revealing***
35 ***security measures that protect: (A) Systems, facilities or equipment used***
36 ***in the production, transmission or distribution of energy, water or***
37 ***communications services; (B) transportation and sewer or wastewater***
38 ***treatment systems, facilities or equipment; or (C) private property or***
39 ***persons, if the records are submitted to the agency. For purposes of this***
40 ***paragraph, security means measures that protect against criminal acts***
41 ***intended to intimidate or coerce the civilian population, influence***
42 ***government policy by intimidation or coercion or to affect the operation***
43 ***of government by disruption of public services, mass destruction,***

1 *assassination or kidnapping. Security measures include, but are not*
2 *limited to, intelligence information, tactical plans, resource deployment*
3 *and vulnerability assessments.*

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

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

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

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

28 *(50) Information provided by providers to the local collection point*
29 *administrator or to the 911 coordinating council pursuant to the Kansas*
30 *911 act, and amendments thereto, upon request of the party submitting*
31 *such records.*

32 *(b) Except to the extent disclosure is otherwise required by law or*
33 *as appropriate during the course of an administrative proceeding or on*
34 *appeal from agency action, a public agency or officer shall not disclose*
35 *financial information of a taxpayer which may be required or requested*
36 *by a county appraiser or the director of property valuation to assist in*
37 *the determination of the value of the taxpayer's property for ad valorem*
38 *taxation purposes; or any financial information of a personal nature*
39 *required or requested by a public agency or officer, including a name,*
40 *job description or title revealing the salary or other compensation of*
41 *officers, employees or applicants for employment with a firm,*
42 *corporation or agency, except a public agency. Nothing contained herein*
43 *shall be construed to prohibit the publication of statistics, so classified as*

1 *to prevent identification of particular reports or returns and the items*
2 *thereof.*

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

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

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

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

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

32 ~~Section 1.~~ *Sec. 2. K.S.A. 74-7402, 74-7403, 74-7404, 74-7406 and*
33 *74-7407 and K.S.A. 2011 Supp. 45-221 are hereby repealed.*

34 ~~Sec. 2.~~ *3. This act shall take effect and be in force from and after its*
35 *publication in the statute book.*

36