

**SENATE BILL No. 81**

By Committee on Judiciary

1-28

1 AN ACT concerning open records; relating to **requests for criminal**  
2 **justice information**; public officials' identifying information;  
3 amending K.S.A. 2012 Supp. **45-220 and 45-221** and repealing the  
4 existing ~~section~~ **sections**; also repealing K.S.A. 2012 Supp. 45-221j  
5 and 45-221k.

6  
7 *Be it enacted by the Legislature of the State of Kansas:*

8 **Section 1. K.S.A. 2012 Supp. 45-220 is hereby amended to read as**  
9 **follows: 45-220. (a) Each public agency shall adopt procedures to be**  
10 **followed in requesting access to and obtaining copies of public**  
11 **records, which procedures shall provide full access to public records,**  
12 **protect public records from damage and disorganization, prevent**  
13 **excessive disruption of the agency's essential functions, provide**  
14 **assistance and information upon request and insure efficient and**  
15 **timely action in response to applications for inspection of public**  
16 **records.**

17 **(b) A public agency may require a written request for inspection**  
18 **of public records but shall not otherwise require a request to be made**  
19 **in any particular form. Except as otherwise provided by subsection**  
20 **(c), a public agency shall not require that a request contain more**  
21 **information than the requester's name and address and the**  
22 **information necessary to ascertain the records to which the requester**  
23 **desires access and the requester's right of access to the records. A**  
24 **public agency may require proof of identity of any person requesting**  
25 **access to a public record. No request shall be returned, delayed or**  
26 **denied because of any technicality unless it is impossible to determine**  
27 **the records to which the requester desires access.**

28 **(c) If access to public records of an agency or the purpose for**  
29 **which the records may be used is limited pursuant to K.S.A. 45-221 or**  
30 **K.S.A. 2012 Supp. 45-230, and amendments thereto, the agency may**  
31 **require a person requesting the records or information therein to**  
32 **provide written certification that:**

33 **(1) The requester has a right of access to the records and the basis**  
34 **of that right; or**

1       **(2) the requester does not intend to, and will not: (A) Use any list**  
2 **of names or addresses contained in or derived from the records or**  
3 **information for the purpose of selling or offering for sale any property**  
4 **or service to any person listed or to any person who resides at any**  
5 **address listed; or (B) sell, give or otherwise make available to any**  
6 **person any list of names or addresses contained in or derived from the**  
7 **records or information for the purpose of allowing that person to sell**  
8 **or offer for sale any property or service to any person listed or to any**  
9 **person who resides at any address listed.**

10       **(d) A public agency shall establish, for business days when it does**  
11 **not maintain regular office hours, reasonable hours when persons may**  
12 **inspect and obtain copies of the agency's records. The public agency**  
13 **may require that any person desiring to inspect or obtain copies of the**  
14 **agency's records during such hours so notify the agency, but such**  
15 **notice shall not be required to be in writing and shall not be required**  
16 **to be given more than 24 hours prior to the hours established for**  
17 **inspection and obtaining copies.**

18       **(e) Each official custodian of public records shall designate such**  
19 **persons as necessary to carry out the duties of custodian under this act**  
20 **and shall ensure that a custodian is available during regular business**  
21 **hours of the public agency to carry out such duties.**

22       **(f) Each public agency shall provide, upon request of any person,**  
23 **the following information:**

24       **(1) The principal office of the agency, its regular office hours and**  
25 **any additional hours established by the agency pursuant to subsection**  
26 **(c).**

27       **(2) The title and address of the official custodian of the agency's**  
28 **records and of any other custodian who is ordinarily available to act**  
29 **on requests made at the location where the information is displayed.**

30       **(3) The fees, if any, charged for access to or copies of the agency's**  
31 **records.**

32       **(4) The procedures to be followed in requesting access to and**  
33 **obtaining copies of the agency's records, including procedures for**  
34 **giving notice of a desire to inspect or obtain copies of records during**  
35 **hours established by the agency pursuant to subsection (c).**

36       *(g) Except for requests of summary data compiled from information*  
37 *submitted by multiple criminal justice agencies or as otherwise provided*  
38 *by law, requests for records submitted to the central repository or any*  
39 *other repositories supporting the criminal justice information system*  
40 *which are maintained by the Kansas bureau of investigation pursuant to*  
41 *K.S.A. 22-4704 and 22-4705, and amendments thereto, shall be directed to*  
42 *the criminal justice agency from which the records originated.*

43       *(h) As used in this section, the terms "central repository," "criminal*

1 *justice agency" and "criminal justice information system" have the same*  
2 *meanings as defined in K.S.A. 22-4701, and amendments thereto.*

3 ~~Section 1~~**Sec 2.** K.S.A. 2012 Supp. 45-221 is hereby amended to read  
4 as follows: 45-221. (a) Except to the extent disclosure is otherwise  
5 required by law, a public agency shall not be required to disclose:

6 (1) Records the disclosure of which is specifically prohibited or  
7 restricted by federal law, state statute or rule of the Kansas supreme court  
8 or rule of the senate committee on confirmation oversight relating to  
9 information submitted to the committee pursuant to K.S.A. 2012 Supp. 75-  
10 4315d, and amendments thereto, or the disclosure of which is prohibited or  
11 restricted pursuant to specific authorization of federal law, state statute or  
12 rule of the Kansas supreme court or rule of the senate committee on  
13 confirmation oversight relating to information submitted to the committee  
14 pursuant to K.S.A. 2012 Supp. 75-4315d, and amendments thereto, to  
15 restrict or prohibit disclosure.

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

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

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

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

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

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

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

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

43 (10) Criminal investigation records, except as provided herein. The

1 district court, in an action brought pursuant to K.S.A. 45-222, and  
2 amendments thereto, may order disclosure of such records, subject to such  
3 conditions as the court may impose, if the court finds that disclosure:

4 (A) Is in the public interest;

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

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

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

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

12 (F) would not reveal the name, address, phone number or any other  
13 information which specifically and individually identifies the victim of any  
14 sexual offense in article 35 of chapter 21 of the Kansas Statutes Annotated,  
15 prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes  
16 Annotated, and amendments thereto.

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

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

27 (12) Records of emergency or security information or procedures of a  
28 public agency, or plans, drawings, specifications or related information for  
29 any building or facility which is used for purposes requiring security  
30 measures in or around the building or facility or which is used for the  
31 generation or transmission of power, water, fuels or communications, if  
32 disclosure would jeopardize security of the public agency, building or  
33 facility.

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

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

43 (15) Records pertaining to employer-employee negotiations, if

1 disclosure would reveal information discussed in a lawful executive  
2 session under K.S.A. 75-4319, and amendments thereto.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (C) the information provided to the law enforcement agency pursuant  
34 to the sex offender registration act, K.S.A. 22-4901 et seq., and  
35 amendments thereto, shall be subject to disclosure to any person, except  
36 that the name, address, telephone number or any other information which  
37 specifically and individually identifies the victim of any offender required  
38 to register as provided by the Kansas offender registration act, K.S.A. 22-  
39 4901 et seq., and amendments thereto, shall not be disclosed; and

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

1 sentencing court.

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

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

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

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

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

21 (35) Any report or record which is made pursuant to K.S.A. 65-4922,  
22 65-4923 or 65-4924, and amendments thereto, and which is privileged  
23 pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.

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

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

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

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

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

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

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

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

7 (44) The amount of franchise tax paid to the secretary of revenue or  
8 the secretary of state by domestic corporations, foreign corporations,  
9 domestic limited liability companies, foreign limited liability companies,  
10 domestic limited partnership, foreign limited partnership, domestic limited  
11 liability partnerships and foreign limited liability partnerships.

12 (45) Records, other than criminal investigation records, the disclosure  
13 of which would pose a substantial likelihood of revealing security  
14 measures that protect: (A) Systems, facilities or equipment used in the  
15 production, transmission or distribution of energy, water or  
16 communications services; (B) transportation and sewer or wastewater  
17 treatment systems, facilities or equipment; or (C) private property or  
18 persons, if the records are submitted to the agency. For purposes of this  
19 paragraph, security means measures that protect against criminal acts  
20 intended to intimidate or coerce the civilian population, influence  
21 government policy by intimidation or coercion or to affect the operation of  
22 government by disruption of public services, mass destruction,  
23 assassination or kidnapping. Security measures include, but are not limited  
24 to, intelligence information, tactical plans, resource deployment and  
25 vulnerability assessments.

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

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

41 (48) Policy information provided by an insurance carrier in  
42 accordance with subsection (h)(1) of K.S.A. 44-532, and amendments  
43 thereto. This exemption shall not be construed to preclude access to an



1 individual employer's record for the purpose of verification of insurance  
2 coverage or to the department of labor for their business purposes.

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

7 (50) Information provided by providers to the local collection point  
8 administrator or to the 911 coordinating council pursuant to the Kansas  
9 911 act, and amendments thereto, upon request of the party submitting  
10 such records.

11 (51) Records of a public agency *on a public website* which *are*  
12 *searchable by a keyword search and* identify the home address or home  
13 ownership of a law enforcement officer as defined in K.S.A. 2012 Supp.  
14 21-5111, and amendments thereto, parole officer, probation officer, court  
15 services officer or community correctional services officer. ~~The agency~~  
16 ~~head of such law enforcement office, parole office, probation office, court~~  
17 ~~services office or community correctional services office or~~ Such  
18 individual officer shall file with the custodian of such record a request to  
19 have such officer's identifying information ~~removed~~ *restricted* from public  
20 access *on such public website*. Within ~~seven~~ *10 business* days of receipt of  
21 such requests, the public agency shall ~~remove~~ *restrict* such officer's  
22 identifying information from such public access. ***Such restriction shall***  
23 ***expire after five years and such officer may file with the custodian of***  
24 ***such record a new request for restriction at any time.***

25 (52) Records of a public agency *on a public website* which *are*  
26 *searchable by a keyword search and* identify the home address or home  
27 ownership of a federal judge, a justice of the supreme court, a judge of the  
28 court of appeals, a district judge, a district magistrate judge, the United  
29 States attorney for the district of Kansas, an assistant United States  
30 attorney, the attorney general, an assistant attorney general, a district  
31 attorney or county attorney or an assistant district attorney or assistant  
32 county attorney. Such person ~~or such person's employer~~ shall file with the  
33 custodian of such record a request to have such person's identifying  
34 information ~~removed~~ *restricted* from public access *on such public website*.  
35 Within ~~seven~~ *10 business* days of receipt of such requests, the public  
36 agency shall ~~remove~~ *restrict* such person's identifying information from  
37 such public access. ***Such restriction shall expire after five years and such***  
38 ***person may file with the custodian of such record a new request for***  
39 ***restriction at any time.***

40 (53) ***Records of a public agency that would disclose the name, home***  
41 ***address, e-mail address, phone number or cell phone number or other***  
42 ***contact information for any person licensed to carry concealed***  
43 ***handguns or of any person who enrolled in or completed any weapons***

1 *training in order to be licensed or has made application for such license*  
2 *under the personal and family protection act, K.S.A. 2012 Supp. 75-7c01*  
3 *et seq., and amendments thereto, shall not be disclosed unless otherwise*  
4 *required by law.*

5 (b) Except to the extent disclosure is otherwise required by law or as  
6 appropriate during the course of an administrative proceeding or on appeal  
7 from agency action, a public agency or officer shall not disclose financial  
8 information of a taxpayer which may be required or requested by a county  
9 appraiser or the director of property valuation to assist in the determination  
10 of the value of the taxpayer's property for ad valorem taxation purposes; or  
11 any financial information of a personal nature required or requested by a  
12 public agency or officer, including a name, job description or title  
13 revealing the salary or other compensation of officers, employees or  
14 applicants for employment with a firm, corporation or agency, except a  
15 public agency. Nothing contained herein shall be construed to prohibit the  
16 publication of statistics, so classified as to prevent identification of  
17 particular reports or returns and the items thereof.

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

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

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

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

42 (g) Any confidential records or information relating to security  
43 measures provided or received under the provisions of subsection (a)(45)

1 shall not be subject to subpoena, discovery or other demand in any  
2 administrative, criminal or civil action.

3     Sec. ~~2~~ **3**. K.S.A. 2012 Supp. **45-220**, 45-221, 45-221j and 45-221k  
4 are hereby repealed.

5     Sec. ~~3~~ **4**. This act shall take effect and be in force from and after its  
6 publication in the statute book.