

**HOUSE BILL No. 2359**

By Committee on Corrections and Juvenile Justice

2-13

1 AN ACT concerning law enforcement; relating to videos; confidentiality;  
2 amending K.S.A. 2014 Supp. 45-221 and repealing the existing section.

3  
4 *Be it enacted by the Legislature of the State of Kansas:*

5 New Section 1. (a) As used in this section:

6 (1) "Body camera" means a device that is worn by a law enforcement  
7 officer that electronically records audio and video of such officer's  
8 activities.

9 (2) "Vehicle camera" means a device that is attached to a law  
10 enforcement vehicle that electronically records audio and video of law  
11 enforcement officers' activities.

12 (b) Every audio and video recording made and retained by a law  
13 enforcement agency using a body camera or vehicle camera shall be  
14 confidential and exempt from the requirements of the Kansas open records  
15 act. The provisions of this subsection shall expire on July 1, 2020, unless  
16 the legislature reviews and reenacts this provision pursuant to K.S.A. 45-  
17 229, and amendments thereto, prior to July 1, 2020.

18 (c) The law enforcement agency shall allow the following people to  
19 view or obtain a copy of a recording made by a body camera or vehicle  
20 camera:

21 (1) A person who is a subject of the recording;

22 (2) a person whose property has been seized or damaged in relation  
23 to, or is otherwise involved with, a crime to which the recording is related;

24 (3) a parent or legal guardian of a person described in subsection (c)  
25 (1) or (c)(2) if such person is under 18 years of age; or

26 (4) an attorney representing a person described in subsections (c)(1)  
27 through (c)(3).

28 Sec. 2. K.S.A. 2014 Supp. 45-221 is hereby amended to read as  
29 follows: 45-221. (a) Except to the extent disclosure is otherwise required  
30 by law, a public agency shall not be required to disclose:

31 (1) Records the disclosure of which is specifically prohibited or  
32 restricted by federal law, state statute or rule of the Kansas supreme court  
33 or rule of the senate committee on confirmation oversight relating to  
34 information submitted to the committee pursuant to K.S.A. 2014 Supp. 75-  
35 4315d, and amendments thereto, or the disclosure of which is prohibited or  
36 restricted pursuant to specific authorization of federal law, state statute or

1 rule of the Kansas supreme court or rule of the senate committee on  
2 confirmation oversight relating to information submitted to the committee  
3 pursuant to K.S.A. 2014 Supp. 75-4315d, and amendments thereto, to  
4 restrict or prohibit disclosure.

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

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

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

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

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

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

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

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

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

36 (A) Is in the public interest;

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

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

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

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

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

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

10 (11) Records of agencies involved in administrative adjudication or  
11 civil litigation, compiled in the process of detecting or investigating  
12 violations of civil law or administrative rules and regulations, if disclosure  
13 would interfere with a prospective administrative adjudication or civil  
14 litigation or reveal the identity of a confidential source or undercover  
15 agent.

16 (12) Records of emergency or security information or procedures of a  
17 public agency, or plans, drawings, specifications or related information for  
18 any building or facility which is used for purposes requiring security  
19 measures in or around the building or facility or which is used for the  
20 generation or transmission of power, water, fuels or communications, if  
21 disclosure would jeopardize security of the public agency, building or  
22 facility.

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

26 (14) Correspondence between a public agency and a private  
27 individual, other than correspondence which is intended to give notice of  
28 an action, policy or determination relating to any regulatory, supervisory or  
29 enforcement responsibility of the public agency or which is widely  
30 distributed to the public by a public agency and is not specifically in  
31 response to communications from such a private individual.

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

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

38 (A) The information which the agency maintains on computer  
39 facilities; and

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

42 (17) Applications, financial statements and other information  
43 submitted in connection with applications for student financial assistance

1 where financial need is a consideration for the award.

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

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

10 (20) Notes, preliminary drafts, research data in the process of  
11 analysis, unfunded grant proposals, memoranda, recommendations or  
12 other records in which opinions are expressed or policies or actions are  
13 proposed, except that this exemption shall not apply when such records are  
14 publicly cited or identified in an open meeting or in an agenda of an open  
15 meeting.

16 (21) Records of a public agency having legislative powers, which  
17 records pertain to proposed legislation or amendments to proposed  
18 legislation, except that this exemption shall not apply when such records  
19 are:

20 (A) Publicly cited or identified in an open meeting or in an agenda of  
21 an open meeting; or

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

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

28 (A) Publicly cited or identified in an open meeting or in an agenda of  
29 an open meeting; or

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

33 (23) Library patron and circulation records which pertain to  
34 identifiable individuals.

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

37 (25) Records which represent and constitute the work product of an  
38 attorney.

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

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

43 (28) Sealed bids and related documents, until a bid is accepted or all

1 bids rejected.

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

4 (A) The name; photograph and other identifying information;  
5 sentence data; parole eligibility date; custody or supervision level;  
6 disciplinary record; supervision violations; conditions of supervision,  
7 excluding requirements pertaining to mental health or substance abuse  
8 counseling; location of facility where incarcerated or location of parole  
9 office maintaining supervision and address of a releasee whose crime was  
10 committed after the effective date of this act shall be subject to disclosure  
11 to any person other than another inmate or releasee, except that the  
12 disclosure of the location of an inmate transferred to another state pursuant  
13 to the interstate corrections compact shall be at the discretion of the  
14 secretary of corrections;

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

19 (C) the information provided to the law enforcement agency pursuant  
20 to the sex offender registration act, K.S.A. 22-4901 et seq., and  
21 amendments thereto, shall be subject to disclosure to any person, except  
22 that the name, address, telephone number or any other information which  
23 specifically and individually identifies the victim of any offender required  
24 to register as provided by the Kansas offender registration act, K.S.A. 22-  
25 4901 et seq., and amendments thereto, shall not be disclosed; and

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

31 (30) Public records containing information of a personal nature where  
32 the public disclosure thereof would constitute a clearly unwarranted  
33 invasion of personal privacy.

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

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

43 (33) Financial information submitted by contractors in qualification

1 statements to any public agency.

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

7 (35) Any report or record which is made pursuant to K.S.A. 65-4922,  
8 65-4923 or 65-4924, and amendments thereto, and which is privileged  
9 pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.

10 (36) Information which would reveal the precise location of an  
11 archeological site.

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

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

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

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

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

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

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

36 (44) The amount of franchise tax paid to the secretary of revenue or  
37 the secretary of state by domestic corporations, foreign corporations,  
38 domestic limited liability companies, foreign limited liability companies,  
39 domestic limited partnership, foreign limited partnership, domestic limited  
40 liability partnerships and foreign limited liability partnerships.

41 (45) Records, other than criminal investigation records, the disclosure  
42 of which would pose a substantial likelihood of revealing security  
43 measures that protect: (A) Systems, facilities or equipment used in the

1 production, transmission or distribution of energy, water or  
2 communications services; (B) transportation and sewer or wastewater  
3 treatment systems, facilities or equipment; or (C) private property or  
4 persons, if the records are submitted to the agency. For purposes of this  
5 paragraph, security means measures that protect against criminal acts  
6 intended to intimidate or coerce the civilian population, influence  
7 government policy by intimidation or coercion or to affect the operation of  
8 government by disruption of public services, mass destruction,  
9 assassination or kidnapping. Security measures include, but are not limited to,  
10 intelligence information, tactical plans, resource deployment and  
11 vulnerability assessments.

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

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

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

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

37 (50) Information provided by providers to the local collection point  
38 administrator or to the 911 coordinating council pursuant to the Kansas  
39 911 act, and amendments thereto, upon request of the party submitting  
40 such records.

41 (51) Records of a public agency on a public website which are  
42 searchable by a keyword search and identify the home address or home  
43 ownership of a law enforcement officer as defined in K.S.A. 2014 Supp.

1 21-5111, and amendments thereto, parole officer, probation officer, court  
2 services officer or community correctional services officer. Such  
3 individual officer shall file with the custodian of such record a request to  
4 have such officer's identifying information restricted from public access on  
5 such public website. Within 10 business days of receipt of such requests,  
6 the public agency shall restrict such officer's identifying information from  
7 such public access. Such restriction shall expire after five years and such  
8 officer may file with the custodian of such record a new request for  
9 restriction at any time.

10 (52) Records of a public agency on a public website which are  
11 searchable by a keyword search and identify the home address or home  
12 ownership of a federal judge, a justice of the supreme court, a judge of the  
13 court of appeals, a district judge, a district magistrate judge, the United  
14 States attorney for the district of Kansas, an assistant United States  
15 attorney, the attorney general, an assistant attorney general, a district  
16 attorney or county attorney or an assistant district attorney or assistant  
17 county attorney. Such person shall file with the custodian of such record a  
18 request to have such person's identifying information restricted from  
19 public access on such public website. Within 10 business days of receipt of  
20 such requests, the public agency shall restrict such person's identifying  
21 information from such public access. Such restriction shall expire after  
22 five years and such person may file with the custodian of such record a  
23 new request for restriction at any time.

24 (53) Records of a public agency that would disclose the name, home  
25 address, zip code, e-mail address, phone number or cell phone number or  
26 other contact information for any person licensed to carry concealed  
27 handguns or of any person who enrolled in or completed any weapons  
28 training in order to be licensed or has made application for such license  
29 under the personal and family protection act, K.S.A. 2014 Supp. 75-7c01  
30 et seq., and amendments thereto, shall not be disclosed unless otherwise  
31 required by law.

32 (54) Records of a utility concerning information about cyber security  
33 threats, attacks or general attempts to attack utility operations provided to  
34 law enforcement agencies, the state corporation commission, the federal  
35 energy regulatory commission, the department of energy, the southwest  
36 power pool, the North American electric reliability corporation, the federal  
37 communications commission or any other federal, state or regional  
38 organization that has a responsibility for the safeguarding of  
39 telecommunications, electric, potable water, waste water disposal or  
40 treatment, motor fuel or natural gas energy supply systems.

41 (55) Records of a public agency containing information or reports  
42 obtained and prepared by the office of the state bank commissioner in the  
43 course of licensing or examining a person engaged in money transmission



1 business pursuant to K.S.A. 9-508 et seq., and amendments thereto, shall  
2 not be disclosed except pursuant to K.S.A. 9-513c, and amendments  
3 thereto, or unless otherwise required by law.

4 (56) *Audio and video recordings made and retained by a law*  
5 *enforcement agency shall not be disclosed except pursuant to section 1,*  
6 *and amendments thereto.*

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

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

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

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

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

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

5 Sec. 3. K.S.A. 2014 Supp. 45-221 is hereby repealed.

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