

SENATE BILL No. 201

By Senator Hensley

2-11

1 AN ACT concerning the open records act; relating to public records and
2 personal electronic devices; amending K.S.A. 2014 Supp. 45-217 and
3 repealing the existing section.
4

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

6 Section 1. K.S.A. 2014 Supp. 45-217 is hereby amended to read as
7 follows: 45-217. As used in the open records act, unless the context
8 otherwise requires:

9 (a) "Business day" means any day other than a Saturday, Sunday or
10 day designated as a holiday by the congress of the United States, by the
11 legislature or governor of this state or by the respective political
12 subdivision of this state.

13 (b) "Clearly unwarranted invasion of personal privacy" means
14 revealing information that would be highly offensive to a reasonable
15 person, including information that may pose a risk to a person or property
16 and is not of legitimate concern to the public.

17 (c) "Criminal investigation records" means records of an
18 investigatory agency or criminal justice agency as defined by K.S.A. 22-
19 4701, and amendments thereto, compiled in the process of preventing,
20 detecting or investigating violations of criminal law, but does not include
21 police blotter entries, court records, rosters of inmates of jails or other
22 correctional or detention facilities or records pertaining to violations of
23 any traffic law other than vehicular homicide as defined by K.S.A. 21-
24 3405, prior to its repeal, or K.S.A. 2014 Supp. 21-5406, and amendments
25 thereto.

26 (d) "Custodian" means the official custodian or any person designated
27 by the official custodian to carry out the duties of custodian of this act.

28 (e) "Official custodian" means any officer or employee of a public
29 agency who is responsible for the maintenance of public records,
30 regardless of whether such records are in the officer's or employee's actual
31 personal custody and control.

32 (f) (1) "Public agency" means the state or any political or taxing
33 subdivision of the state or any office, officer, agency or instrumentality
34 thereof, or any other entity receiving or expending and supported in whole
35 or in part by the public funds appropriated by the state or by public funds
36 of any political or taxing subdivision of the state.

1 (2) "Public agency" shall not include:

2 (A) Any entity solely by reason of payment from public funds for
3 property, goods or services of such entity; (B) any municipal judge, judge
4 of the district court, judge of the court of appeals or justice of the supreme
5 court; or (C) any officer or employee of the state or political or taxing
6 subdivision of the state if the state or political or taxing subdivision does
7 not provide the officer or employee with an office which is open to the
8 public at least 35 hours a week.

9 (g) (1) "Public record" means any recorded information, regardless of
10 form or characteristics, which is made, maintained or kept by or is in the
11 possession of any public agency including, but not limited to, an
12 agreement in settlement of litigation involving the Kansas public
13 employees retirement system and the investment of moneys of the fund.
14 *Public record includes any recorded information made, maintained or kept*
15 *on a personal electronic device by a public agency in furtherance of the*
16 *public agency's duties related to the functions, activities, programs or*
17 *operations funded by public funds.*

18 (2) "Public record" shall not include records which are owned by a
19 private person or entity and are not related to functions, activities,
20 programs or operations funded by public funds or records which are made,
21 maintained or kept by an individual who is a member of the legislature or
22 of the governing body of any political or taxing subdivision of the state.

23 (3) "Public record" shall not include records of employers related to
24 the employer's individually identifiable contributions made on behalf of
25 employees for workers compensation, social security, unemployment
26 insurance or retirement. The provisions of this subsection shall not apply
27 to records of employers of lump-sum payments for contributions as
28 described in this subsection paid for any group, division or section of an
29 agency.

30 (h) "Undercover agent" means an employee of a public agency
31 responsible for criminal law enforcement who is engaged in the detection
32 or investigation of violations of criminal law in a capacity where such
33 employee's identity or employment by the public agency is secret.

34 Sec. 2. K.S.A. 2014 Supp. 45-217 is hereby repealed.

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