

As Amended by Senate Committee

Session of 2016

SENATE BILL No. 361

By Committee on Judiciary

1-25

1 AN ACT concerning the open records act; relating to definitions; public
2 agency and public record; amending K.S.A. 2015 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. 2015 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. 2015 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; *or* (B) any municipal judge,
4 judge of the district court, judge of the court of appeals or justice of the
5 supreme court; ~~or (C) any officer or employee of the state or political or~~
6 ~~taxing subdivision of the state if the state or political or taxing subdivision~~
7 ~~does not provide the officer or employee with an office which is open to~~
8 ~~the public at least 35 hours a week.~~

9 (g) (1) "Public record" means any recorded information, regardless of
10 form ~~or~~, characteristics *or location*, which is made, maintained or kept by
11 or is in the possession of:

12 (A) Any public agency ~~including, but not limited to, an agreement in~~
13 ~~settlement of litigation involving the Kansas public employees retirement~~
14 ~~system and the investment of moneys of the fund; *or*~~

15 (B) ~~any officer or employee of a public agency in connection with the~~
16 ~~transaction of public or official business or bearing upon the public or~~
17 ~~official activities and functions pursuant to the officer's or employee's~~
18 ~~official duties and which is related to the functions, activities, programs~~
19 ~~or operations of any public agency.~~

20 (2) "Public record" shall include, but not be limited to, an agreement
21 in settlement of litigation involving the Kansas public employees
22 retirement system and the investment of moneys of the fund.

23 (3) ***Notwithstanding the provisions of subsection (g)(1), "public***
24 ***record" shall not include:***

25 (A) Records which are owned by a private person or entity and are
26 not related to functions, activities, programs or operations funded by
27 public funds ~~or~~. ***As used in this subparagraph, "private person" shall not***
28 ***include an officer or employee of a public agency who is acting pursuant***
29 ***to the officer's or employee's official duties;***

30 (B) records which are made, maintained or kept by an individual who
31 is a member of the legislature or of the governing body of any political or
32 taxing subdivision of the state;

33 (3) ~~"Public record" shall not include; *or*~~

34 (C) records of employers related to the employer's individually
35 identifiable contributions made on behalf of employees for workers
36 compensation, social security, unemployment insurance or retirement. The
37 provisions of this ~~subsection~~ ***subparagraph*** shall not apply to records of
38 employers of lump-sum payments for contributions as described in this
39 ~~subsection~~ ***subparagraph*** paid for any group, division or section of an
40 agency.

41 (h) "Undercover agent" means an employee of a public agency
42 responsible for criminal law enforcement who is engaged in the detection
43 or investigation of violations of criminal law in a capacity where such

- 1 employee's identity or employment by the public agency is secret.
- 2 Sec. 2. K.S.A. 2015 Supp. 45-217 is hereby repealed.
- 3 Sec. 3. This act shall take effect and be in force from and after its
- 4 publication in the statute book.