

Date: Feb. 6, 2024

From: Rachel Schrag Sommerfeld, News Director, KSNW-TV, Wichita

Thank you for allowing me to testify in support of House Bill 2599, regarding limiting fees charged for copying and staff time for Kansas Open Records Act documents. My name is Rachel Schrag Sommerfeld, I am the news director at KSNW-TV in Wichita, Kansas. I have been a journalist in Kansas for nearly 25 years, working in both print and broadcast mediums.

It is essential that open records in Kansas must be available to the public and to journalists, as it is a vital part of our process of ensuring that our government is held accountable to working for the people of Kansas. Excessive costs for KORA fees prevent individuals and journalists from being able to gain access to records that are meant to be open for a reason – so that Kansans can be aware of what is being done with our tax dollars. However excessive KORA fees are not uncommon in Kansas.

As an example, in 2018, KSN requested records from the Department for Children and Families in the case of Anthony Bunn, known as Tony, a 2-year-old Wichita boy who died at the hands of his mother and her boyfriend. The mother is now serving 19 years in prison, the boyfriend 48 years, after pleading guilty to 2<sup>nd</sup> degree murder. KSN learned that DCF had been involved in Bunn's care and had investigated several reported cases of abuse and neglect prior to the child's death. KSN journalists wanted to see how DCF had handled these cases – could more have been done to provide services to this boy, preventing his tragic death? KSN requested all documents regarding any DCF involvement with cases involving Bunn, including parents and guardians, and the mother's boyfriend.

We were given an estimate of \$493 for 552 pages of documents, and 10 hours of labor at \$38/hour. The first 100 pages were provided without printing costs, per then-Governor Jeff Colyer's Executive Order, the rest were billed at 25 cents per page. When we received the documents, we received 429 pages instead of the estimated 552. (This was not discovered immediately, and we did not request a refund when it was discovered.) Of those 429 pages, 214 pages were either entirely blank or entirely redacted. This includes 74 pages that were either blank forms that appeared to have been printed off but never filled out, providing no information or data; or pages that were simply blank pieces of paper with no information on them. Another 140 pages were redacted in their entirety – the vast majority were pages that included a large black rectangle box over the entire page, not leaving any piece of information on the paperwork. I do understand that some items regarding the Wichita Police Department's investigation would be redacted, and we fully understood that some personal identifying details would be redacted for privacy.

However at 10 hours of labor, charged a \$38/hour, I would expect the redactions to be more precise, instead of blacking out entire pages, rendering the document useless. It is unreasonable that we would be charged nearly \$500 dollars for records when half of the documents provided had no information or were entirely redacted. At the time, KSN was investigating multiple child deaths in which DCF had been involved in the case prior to the child's death. That includes the case of Evan Brewer, the 4-year-old Wichita boy that died after months of torture at the hands of his mother and her boyfriend. In response to a KSN Open Records request in that case, the agency released documents and admitted that documentation regarding DCF's checks on the child had been changed by an employee *after* the child's death, changing it to say that a DCF employee had followed up on a concern with the family, when in fact that contact never happened. As you likely know, this case, among others, prompted changes within

DCF, including new legislation to increase transparency and multiple procedural changes within the agency. KSN has agreed to split the costs in some of these DCF cases, with the Wichita Eagle to lessen the financial burden on each of our organizations and allow more requests to be made public. Had KSN, the Eagle or other journalists not been able to afford these documents, prompting questions to lawmakers, DCF and others, would changes in DCF have happened? Would efforts have been made to protect the lives of vulnerable children, had the lapses in procedure not been documented and publicized through a Kansas Open Records Act request?

KSN is a founding member of the Wichita Journalism Collaborative and has been an active member since 2020. It is a coalition of newsrooms and community partners, joining forces to help meet news and information needs in and around Wichita, enhancing quality local journalism. It includes KMUW radio, The Wichita Eagle, The Community Voice, The Wichita Beacon, The Sunflower and Planeta Venus, among others. Before this testimony I asked my colleagues what they had experienced regarding cost of open records. One member told me they were initially charged \$12 for a document that was readily available from the city of Wichita – it was a report that had been submitted to the KBI. No additional research was required, it was simply a document that could be emailed or uploaded. Eventually the city agreed to drop the charge. Another colleague told me they were looking into death records and were told some items are being held at the salt mines in Hutchinson. While they expected the cost for this request to be higher than most, they were shocked to receive a cost estimate of \$8586 to retrieve files and compile the information, with payment required up front. Others recalled having to pay a standard \$50+ for research to determine if the files were available. HB 2599 would ensure that fees would not be allowed simply to search to see if the records exist.

Journalists – and I say journalists because that’s what we are – not “the media” – Journalists are the 4<sup>th</sup> estate for a reason – we are here to be the checks and balances to ensure that no political party, no lawmaker, no taxpayer-funded agency is taking advantage of Kansans’ money, trust, or their liberties. Unfortunately, there have been cases in recent years when KSN has declined paying for a KORA request due to the excessive cost. Those records, meant to be public and available to all Kansans, were never revealed, as we didn’t have the budget to pay for them. I know our organization is not the only one. Many news organizations in Kansas are small operations, working with limited staff and budget. It is essential that lawmakers that value transparency, who have nothing to hide from their constituencies, support HB 2599 to ensure open government in Kansas.

Thank you for your time and allowing me to discuss this important issue. I am available for questions or follow up.

(Attached below: examples of blank or redacted pages from DCF in above case.)



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