

As Further Amended by House Committee

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Session of 2017

HOUSE BILL No. 2070

By Committee on Judiciary

1-18

1 AN ACT concerning the Kansas law enforcement training act; relating to
2 open records, exemptions; amending K.S.A. 2016 Supp. 74-5607 and
3 74-5611a and repealing the existing ~~section~~ sections.
4

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

6 **Section 1. K.S.A. 2016 Supp. 74-5607 is hereby amended to read**
7 **as follows: 74-5607. (a) In addition to other powers and duties**
8 **prescribed by law, the commission shall adopt, in accordance with the**
9 **provisions of K.S.A. 77-415 et seq., and amendments thereto, rules and**
10 **regulations necessary to carry out the provisions of and to administer**
11 **the Kansas law enforcement training act. The commission may also**
12 **adopt such rules of procedure or guidance documents as are necessary**
13 **for conducting the business of the commission.**

14 **(b) The commission or a designated committee or member of the**
15 **commission may conduct investigations and proceedings necessary to**
16 **carry out the provisions of the Kansas law enforcement training act.**
17 **In all investigations, hearings or other matters pending before the**
18 **commission, the commission or any person acting as a presiding**
19 **officer for the commission shall have the power to:**

20 **(1) Administer oaths and take testimony;**

21 **(2) issue subpoenas, compel the attendance of witnesses and the**
22 **production of any papers, books, accounts, documents and testimony,**
23 **and to cause the deposition of witnesses, either residing within or**
24 **without the state, to be taken in the manner prescribed by law for**
25 **taking depositions in civil actions in the district courts. In case of the**
26 **failure of any person to comply with any subpoena issued on behalf of**
27 **the commission, or on the refusal of any witness to testify to any**
28 **matters regarding which the witness may be lawfully questioned, the**
29 **district court of any county, on application of a member of the**
30 **commission, may require compliance by proceedings for contempt, as**
31 **in the case of failure to comply with a subpoena issued from such**
32 **court or a refusal to testify in such court. Each witness who appears**
33 **before the commission by its order or subpoena, other than a state**
34 **officer or employee, shall receive for such attendance the fees and**

1 mileage provided for witnesses in civil cases in courts of record which
2 shall be audited and paid upon presentation of proper vouchers sworn
3 to by such witnesses and approved by the chairperson of the
4 commission or by a person or persons designated by the chairperson;

5 (3) enter into contracts necessary to administer the provisions of
6 the Kansas law enforcement training act and the certification of law
7 enforcement officers; and

8 (4) assess the costs of such matters pending before the
9 commission under this section against the governmental entity
10 employing the police officer or law enforcement officer.

11 (c) Members of the commission attending meetings of the
12 commission, or attending a committee meeting authorized by the
13 commission, shall be paid amounts provided for in ~~subsection (e) of~~
14 K.S.A. 75-3223(e), and amendments thereto. The commission shall be
15 responsible for approving all expense vouchers of members.

16 (d) The commission shall meet at least once each year at the
17 training center and may hold other meetings whenever they are called
18 by the chairperson.

19 (e) The commission shall adopt the rules and regulations that are
20 necessary to ensure that law enforcement officers are adequately
21 trained and to enforce the provisions of the Kansas law enforcement
22 training act. Such rules and regulations shall include, but are not
23 limited to, the establishment of a course of fire as a standard
24 qualification for active law enforcement officers to carry firearms that
25 may also be used for qualified retired officers to carry firearms
26 pursuant to federal law. The director of police training shall provide
27 qualification opportunities for qualified retired officers at the times
28 and places the director determines to be necessary. The training center
29 shall charge and collect a fee from retired state, local and federal
30 officers for the qualification opportunities, but these fees shall be
31 limited to the actual costs of presenting the standard qualifications
32 course.

33 (f) On and after July 1, 2012, the commission shall require
34 fingerprinting of each applicant for certification under the Kansas law
35 enforcement training act, and may require fingerprinting of a person
36 who has received a certificate under the Kansas law enforcement
37 training act prior to July 1, 2012, if such person's conduct is
38 investigated pursuant to this section. The commission shall appoint an
39 employee of the commission whose official duty includes seeking and
40 maintaining confidential information as provided by this subsection.
41 The appointed employee shall submit fingerprints to the Kansas
42 bureau of investigation and to the federal bureau of investigation for
43 the purpose of verifying the identity of such applicant or certificate

1 holder and for obtaining records of that person's criminal arrests and
2 convictions. Upon the request of the appointed employee, the Kansas
3 bureau of investigation and other criminal justice agencies shall
4 provide to the appointed employee all background investigation
5 information including criminal history record information, arrest and
6 nonconviction data and criminal intelligence information. Such
7 information, other than conviction data, shall be confidential and shall
8 not be disclosed by the appointed employee, except for a purpose
9 stated in this section. In addition to any other penalty provided by law,
10 unauthorized disclosure of such information shall be grounds for
11 removal from office or termination of employment.

12 (g) *Any complaint or report, record or other information relating to a*
13 *complaint that is received, obtained, created or maintained by the*
14 *commission shall be a record that is not required to be disclosed under*
15 *K.S.A. 45-221(a)(10), and amendments thereto. The provisions of this*
16 *subsection shall expire on July 1, 2022, unless the legislature reviews and*
17 *reenacts this provision pursuant to K.S.A. 45-229, and amendments*
18 *thereto, or any other statute.*

19 ~~Section 1.~~ **Sec. 2.** K.S.A. 2016 Supp. 74-5611a is hereby amended to
20 read as follows: 74-5611a. (a) The commission shall establish and
21 maintain a central registry of all Kansas police officers or law enforcement
22 officers. The purpose of the registry is to be a resource for all agencies
23 who appoint or elect police or law enforcement officers to use when
24 reviewing employment applications of such officers. The registry shall be
25 made available only to those agencies who appoint or elect police or law
26 enforcement officers.

27 (b) The director shall provide forms for registration and shall refuse
28 any registration not submitted on such form in full detail.

29 (c) Within 30 days of appointment, election or termination, every city,
30 county and state agency, every school district and every community
31 college shall submit the name of any person appointed or elected to or
32 terminated from the position of police officer or law enforcement officer
33 within its jurisdiction.

34 (d) Upon termination, the agency head shall include a report
35 explaining the circumstances under which the officer resigned or was
36 terminated. Such termination report shall be available to the terminated
37 officer and any law enforcement agency to which the terminated officer
38 later applies for a position as a police officer or law enforcement officer.
39 The terminated officer may submit a written statement in response to the
40 termination and any such statement shall be included in the registry file
41 concerning such officer. The director shall adopt a format for the
42 termination report.

43 (e) The agency, agency head and any officer or employee of the

1 agency shall be absolutely immune from civil liability:

2 (1) For the report made in accordance with subsection (d); and

3 (2) when responding in writing to a written request concerning a
4 current or former officer from a prospective law enforcement agency of
5 that officer for the report made in accordance with subsection (d) and for
6 the disclosure of such report.

7 *(f) The registry maintained in accordance with subsection (a) and the*
8 *report submitted in accordance with subsection (d) shall be confidential*
9 *and shall not be subject to disclosure under the Kansas open records act,*
10 *K.S.A. 45-215 et seq., and amendments thereto. The confidentiality*
11 *prescribed by this section is not subject to expiration* **considered**
12 **personnel records that are not required to be disclosed under K.S.A.**
13 **45-221(a)(4), and amendments thereto. The provisions of this**
14 **subsection shall expire on July 1, 2022, unless the legislature reviews**
15 **and reenacts this provision pursuant to K.S.A. 45-229, and amendments**
16 **thereto, or any other statute.**

17 ~~New Sec. 2.—(a) Except as provided in subsection (b), any complaint~~
18 ~~or report, record or other information relating to a complaint which is~~
19 ~~received, obtained, created or maintained by the commission shall be~~
20 ~~confidential and shall not be subject to disclosure under the open records~~
21 ~~act, K.S.A. 45-215 et seq., and amendments thereto. The confidentiality~~
22 ~~prescribed by this section is not subject to expiration pursuant to K.S.A.~~
23 ~~45-229, and amendments thereto, or any other statute.~~

24 ~~(b) Any complaint, report, record or other information relating to a~~
25 ~~complaint which is received, obtained, created or maintained by the~~
26 ~~commission may be disclosed:~~

27 ~~(1) In any proceeding conducted by the commission in accordance~~
28 ~~with the Kansas administrative procedure act or in an appeal of an order of~~
29 ~~the commission entered in a proceeding, or to a party in such proceeding~~
30 ~~or that party's attorney;~~

31 ~~(2) to a municipal, state or federal licensing, regulatory or~~
32 ~~enforcement agency with jurisdiction over acts or conduct similar to acts~~
33 ~~or conduct which would constitute grounds for action under this act; and~~

34 ~~(3) to the director of police training when such disclosure is relevant~~
35 ~~to the exercise of the authority granted in K.S.A. 74-5604a(b), and~~
36 ~~amendments thereto.~~

37 ~~(c) Any complaint or report, record or other information disclosed by~~
38 ~~the commission as authorized by this section shall remain under seal in the~~
39 ~~record of the administrative proceeding in which disclosed and shall not be~~
40 ~~rediscovered by the receiving party or agency, except as otherwise~~
41 ~~authorized by law.~~

42 ~~(d) This section shall be part of and supplemental to the Kansas law~~
43 ~~enforcement training act.~~

1 Sec. 3. K.S.A. 2016 Supp. **74-5607 and 74-5611a** ~~is~~**are** hereby
2 repealed.

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