

As Amended by House Committee

Session of 2018

HOUSE BILL No. 2571

By Representative Alcalá

1-30

1 AN ACT concerning the open records act; relating to disclosure of
2 ~~criminal investigation records; disclosure of law enforcement~~
3 ~~recordings using a body camera or vehicle camera; amending K.S.A.~~
4 ~~2017 Supp. 45-219, 45-221 and 45-254 and repealing the existing~~
5 ~~sections~~ **section.**

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. ~~K.S.A. 2017 Supp. 45-219 is hereby amended to read as~~
9 ~~follows: 45-219. (a) Any person may make abstracts or obtain copies of~~
10 ~~any public record to which such person has access under this act. If copies~~
11 ~~are requested, the public agency may require a written request and advance~~
12 ~~payment of the prescribed fee *payment of copying fees may be required*~~
13 ~~prior to the making of copies. A public agency shall not be required to~~
14 ~~provide copies of *public records maintained on computer facilities*, radio~~
15 ~~or recording tapes or discs, video tapes or films, pictures, slides, graphics,~~
16 ~~illustrations or similar audio or visual items or devices, unless *if*~~
17 ~~*duplication equipment is available or if* such items or devices were shown~~
18 ~~or played to a public meeting of the governing body thereof, but the. A~~
19 ~~public agency shall not be required to provide such items or devices which~~
20 ~~are copyrighted by a person other than the public agency.~~

21 (b) ~~Copies of public records shall be made while the records are in~~
22 ~~the possession, custody and control of the custodian or a person designated~~
23 ~~by the custodian and shall be made under the supervision of such~~
24 ~~custodian or person. When practical, copies shall be made in the place~~
25 ~~where the records are kept. If it is impractical to do so, the custodian shall~~
26 ~~allow arrangements to be made for use of other facilities. If it is necessary~~
27 ~~to use other facilities for copying, the cost thereof shall be paid by the~~
28 ~~person desiring a copy of the records. In addition, the public agency may~~
29 ~~charge the same fee for the services rendered in supervising the copying as~~
30 ~~for furnishing copies under subsection (c) and may establish a reasonable~~
31 ~~schedule of times for making copies at other facilities.~~

32 (e) ~~Except as provided by subsection (f) or where fees for inspection~~
33 ~~or for copies of a public record are prescribed by statute, each public~~
34 ~~agency may prescribe reasonable fees for providing access to or furnishing~~
35 ~~copies of public records, subject to the following:~~

36 (1) ~~In the case of fees for copies of records, the fees shall not exceed~~

1 the actual cost of furnishing copies, including the cost of staff time
2 required to make the information available.

3 (2) In the case of fees for providing access to records maintained on
4 computer facilities, the fees shall include only the cost of any computer
5 services, including staff time required.

6 (3) Fees for access to or copies of public records of public agencies
7 within the legislative branch of the state government shall be established in
8 accordance with K.S.A. 46-1207a, and amendments thereto.

9 (4) Fees for access to or copies of public records of public agencies
10 within the judicial branch of the state government shall be established in
11 accordance with rules of the supreme court.

12 (5) Fees for access to or copies of public records of a public agency
13 within the executive branch of the state government shall be established by
14 the agency head. Any person requesting records may appeal the
15 reasonableness of the fees charged for providing access to or furnishing
16 copies of such records to the secretary of administration whose decision
17 shall be final. A fee for copies of public records which is equal to or less
18 than \$.25 per page shall be deemed a reasonable fee.

19 (d) Except as otherwise authorized pursuant to K.S.A. 75-4215, and
20 amendments thereto, each public agency within the executive branch of
21 the state government shall remit all moneys received by or for it from fees
22 charged pursuant to this section to the state treasurer in accordance with
23 K.S.A. 75-4215, and amendments thereto. Unless otherwise specifically
24 provided by law, the state treasurer shall deposit the entire amount thereof
25 in the state treasury and credit the same to the state general fund or an
26 appropriate fee fund as determined by the agency head.

27 (e) Each public agency of a political or taxing subdivision shall remit
28 all moneys received by or for it from fees charged pursuant to this act to
29 the treasurer of such political or taxing subdivision at least monthly. Upon
30 receipt of any such moneys, such treasurer shall deposit the entire amount
31 thereof in the treasury of the political or taxing subdivision and credit the
32 same to the general fund thereof, unless otherwise specifically provided by
33 law.

34 (f) Any person who is a certified shorthand reporter may charge fees
35 for transcripts of such person's notes of judicial or administrative
36 proceedings in accordance with rates established pursuant to rules of the
37 Kansas supreme court.

38 (g) Nothing in the open records act shall require a public agency to
39 electronically make copies of public records by allowing a person to obtain
40 copies of a public record by inserting, connecting or otherwise attaching
41 an electronic device provided by such person to the computer or other
42 electronic device of the public agency.

43 Sec. 2. K.S.A. 2017 Supp. 45-221 is hereby amended to read as

1 follows: 45-221. (a) Except to the extent disclosure is otherwise required
2 by law, a public agency shall not be required to disclose:

3 ~~(1) Records the disclosure of which is specifically prohibited or~~
4 ~~restricted by federal law, state statute or rule of the Kansas supreme court~~
5 ~~or rule of the senate committee on confirmation oversight relating to~~
6 ~~information submitted to the committee pursuant to K.S.A. 2017 Supp. 75-~~
7 ~~4315d, and amendments thereto, or the disclosure of which is prohibited or~~
8 ~~restricted pursuant to specific authorization of federal law, state statute or~~
9 ~~rule of the Kansas supreme court or rule of the senate committee on~~
10 ~~confirmation oversight relating to information submitted to the committee~~
11 ~~pursuant to K.S.A. 2017 Supp. 75-4315d, and amendments thereto, to~~
12 ~~restrict or prohibit disclosure.~~

13 ~~(2) Records which *that* are privileged under the rules of evidence,~~
14 ~~unless the holder of the privilege consents to the disclosure.~~

15 ~~(3) Medical, psychiatric, psychological or alcoholism or drug~~
16 ~~dependency treatment records which pertain to identifiable patients.~~

17 ~~(4) Personnel records, performance ratings or individually identifiable~~
18 ~~records pertaining to employees or applicants for employment, except that~~
19 ~~this exemption shall not apply to the names, positions, salaries or actual~~
20 ~~compensation employment contracts or employment-related contracts or~~
21 ~~agreements and lengths of service of officers and employees of public~~
22 ~~agencies once they are employed as such.~~

23 ~~(5) Information which *that* would reveal the identity of any~~
24 ~~undercover agent or any informant reporting a specific violation of law.~~

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

28 ~~(7) Library, archive and museum materials contributed by private~~
29 ~~persons, to the extent of any limitations imposed as conditions of the~~
30 ~~contribution.~~

31 ~~(8) Information which *that* would reveal the identity of an individual~~
32 ~~who lawfully makes a donation to a public agency, if anonymity of the~~
33 ~~donor is a condition of the donation, except if the donation is intended for~~
34 ~~or restricted to providing remuneration or personal tangible benefit to a~~
35 ~~named public officer or employee.~~

36 ~~(9) Testing and examination materials, before the test or examination~~
37 ~~is given or if it is to be given again, or records of individual test or~~
38 ~~examination scores, other than records which *that* show only passage or~~
39 ~~failure and not specific scores.~~

40 ~~(10) Criminal investigation records, except as provided herein *in*~~
41 ~~*subsection (h)*. The district court, in an action brought pursuant to K.S.A.~~
42 ~~45-222, and amendments thereto, may order disclosure of such records,~~
43 ~~subject to such conditions as the court may impose, if the court finds that~~

1 disclosure:

2 (A) ~~Is in the public interest;~~

3 (B) ~~would not interfere with any prospective law enforcement action,~~
4 ~~criminal investigation or prosecution;~~

5 (C) ~~would not reveal the identity of any confidential source or~~
6 ~~underecover agent;~~

7 (D) ~~would not reveal confidential investigative techniques or~~
8 ~~procedures not known to the general public;~~

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

10 (F) ~~would not reveal the name, address, phone number or any other~~
11 ~~information which specifically and individually identifies the victim of any~~
12 ~~sexual offense in article 35 of chapter 21 of the Kansas Statutes Annotated,~~
13 ~~prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes~~
14 ~~Annotated, and amendments thereto.~~

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

19 (11) ~~Records of agencies involved in administrative adjudication or~~
20 ~~civil litigation, compiled in the process of detecting or investigating~~
21 ~~violations of civil law or administrative rules and regulations, if disclosure~~
22 ~~would interfere with a prospective administrative adjudication or civil~~
23 ~~litigation or reveal the identity of a confidential source or underecover~~
24 ~~agent.~~

25 (12) ~~Records of emergency or security information or procedures of a~~
26 ~~public agency, or plans, drawings, specifications or related information for~~
27 ~~any building or facility which *that* is used for purposes requiring security~~
28 ~~measures in or around the building or facility or which *that* is used for the~~
29 ~~generation or transmission of power, water, fuels or communications, if~~
30 ~~disclosure would jeopardize security of the public agency, building or~~
31 ~~facility.~~

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

35 (14) ~~Correspondence between a public agency and a private~~
36 ~~individual, other than correspondence which *that* is intended to give notice~~
37 ~~of an action, policy or determination relating to any regulatory, supervisory~~
38 ~~or enforcement responsibility of the public agency or which *that* is widely~~
39 ~~distributed to the public by a public agency and is not specifically in~~
40 ~~response to communications from such a private individual.~~

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

1 ~~(16) Software programs for electronic data processing and~~
2 ~~documentation thereof, but each public agency shall maintain a register,~~
3 ~~open to the public, that describes:~~

4 ~~(A) The information which that the agency maintains on computer~~
5 ~~facilities; and~~

6 ~~(B) the form in which the information can be made available using~~
7 ~~existing computer programs.~~

8 ~~(17) Applications, financial statements and other information~~
9 ~~submitted in connection with applications for student financial assistance~~
10 ~~where financial need is a consideration for the award.~~

11 ~~(18) Plans, designs, drawings or specifications which that are~~
12 ~~prepared by a person other than an employee of a public agency or records~~
13 ~~which that are the property of a private person.~~

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

19 ~~(20) Notes, preliminary drafts, research data in the process of~~
20 ~~analysis, unfunded grant proposals, memoranda, recommendations or~~
21 ~~other records in which opinions are expressed or policies or actions are~~
22 ~~proposed, except that this exemption shall not apply when such records are~~
23 ~~publicly cited or identified in an open meeting or in an agenda of an open~~
24 ~~meeting.~~

25 ~~(21) Records of a public agency having legislative powers, which~~
26 ~~records pertain to proposed legislation or amendments to proposed~~
27 ~~legislation, except that this exemption shall not apply when such records~~
28 ~~are:~~

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

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

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

37 ~~(A) Publicly cited or identified in an open meeting or in an agenda of~~
38 ~~an open meeting; or~~

39 ~~(B) distributed to a majority of a quorum of any body which that has~~
40 ~~authority to take action or make recommendations to the public agency~~
41 ~~with regard to the matters to which such records pertain.~~

42 ~~(23) Library patron and circulation records which that pertain to~~
43 ~~identifiable individuals.~~

1 ~~(24) Records which that are compiled for census or research purposes~~
2 ~~and which that pertain to identifiable individuals.~~

3 ~~(25) Records which that represent and constitute the work product of~~
4 ~~an attorney.~~

5 ~~(26) Records of a utility or other public service pertaining to~~
6 ~~individually identifiable residential customers of the utility or service.~~

7 ~~(27) Specifications for competitive bidding, until the specifications~~
8 ~~are officially approved by the public agency.~~

9 ~~(28) Sealed bids and related documents, until a bid is accepted or all~~
10 ~~bids rejected.~~

11 ~~(29) Correctional records pertaining to an identifiable inmate or~~
12 ~~release, except that:~~

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

24 ~~(B) the attorney general, law enforcement agencies, counsel for the~~
25 ~~inmate to whom the record pertains and any county or district attorney~~
26 ~~shall have access to correctional records to the extent otherwise permitted~~
27 ~~by law;~~

28 ~~(C) the information provided to the law enforcement agency pursuant~~
29 ~~to the sex offender registration act, K.S.A. 22-4901 et seq., and~~
30 ~~amendments thereto, shall be subject to disclosure to any person, except~~
31 ~~that the name, address, telephone number or any other information which~~
32 ~~specifically and individually identifies the victim of any offender required~~
33 ~~to register as provided by the Kansas offender registration act, K.S.A. 22-~~
34 ~~4901 et seq., and amendments thereto, shall not be disclosed; and~~

35 ~~(D) records of the department of corrections regarding the financial~~
36 ~~assets of an offender in the custody of the secretary of corrections shall be~~
37 ~~subject to disclosure to the victim, or such victim's family, of the crime for~~
38 ~~which the inmate is in custody as set forth in an order of restitution by the~~
39 ~~sentencing court.~~

40 ~~(30) Public records containing information of a personal nature where~~
41 ~~the public disclosure thereof would constitute a clearly unwarranted~~
42 ~~invasion of personal privacy.~~

43 ~~(31) Public records pertaining to prospective location of a business or~~

1 industry where no previous public disclosure has been made of the
2 business' or industry's interest in locating in, relocating within or
3 expanding within the state. This exception shall not include those records
4 pertaining to application of agencies for permits or licenses necessary to
5 do business or to expand business operations within this state, except as
6 otherwise provided by law.

7 (32) ~~Engineering and architectural estimates made by or for any~~
8 ~~public agency relative to public improvements.~~

9 (33) ~~Financial information submitted by contractors in qualification~~
10 ~~statements to any public agency.~~

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

16 (35) ~~Any report or record which that is made pursuant to K.S.A. 65-~~
17 ~~4922, 65-4923 or 65-4924, and amendments thereto, and which that is~~
18 ~~privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments~~
19 ~~thereto.~~

20 (36) ~~Information which that would reveal the precise location of an~~
21 ~~archeological site.~~

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

25 (38) ~~Risk-based capital reports, risk-based capital plans and~~
26 ~~corrective orders including the working papers and the results of any~~
27 ~~analysis filed with the commissioner of insurance in accordance with~~
28 ~~K.S.A. 40-2e20 and 40-2d20, and amendments thereto.~~

29 (39) ~~Memoranda and related materials required to be used to support~~
30 ~~the annual actuarial opinions submitted pursuant to K.S.A. 40-409(b), and~~
31 ~~amendments thereto.~~

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

34 (41) ~~All financial analysis ratios and examination synopses~~
35 ~~concerning insurance companies that are submitted to the commissioner by~~
36 ~~the national association of insurance commissioners' insurance regulatory~~
37 ~~information system.~~

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

40 (43) ~~Market research, market plans, business plans and the terms and~~
41 ~~conditions of managed care or other third-party contracts, developed or~~
42 ~~entered into by the university of Kansas medical center in the operation~~
43 ~~and management of the university hospital which that the chancellor of the~~

1 university of Kansas or the chancellor's designee determines would give an
2 unfair advantage to competitors of the university of Kansas medical center.

3 ~~(44) The amount of franchise tax paid to the secretary of revenue or~~
4 ~~the secretary of state by domestic corporations, foreign corporations,~~
5 ~~domestic limited liability companies, foreign limited liability companies,~~
6 ~~domestic limited partnership, foreign limited partnership, domestic limited~~
7 ~~liability partnerships and foreign limited liability partnerships.~~

8 ~~(45) Records, other than criminal investigation records, the disclosure~~
9 ~~of which would pose a substantial likelihood of revealing security~~
10 ~~measures that protect: (A) Systems, facilities or equipment used in the~~
11 ~~production, transmission or distribution of energy, water or~~
12 ~~communications services; (B) transportation and sewer or wastewater~~
13 ~~treatment systems, facilities or equipment; or (C) private property or~~
14 ~~persons, if the records are submitted to the agency. For purposes of this~~
15 ~~paragraph, security means measures that protect against criminal acts~~
16 ~~intended to intimidate or coerce the civilian population, influence~~
17 ~~government policy by intimidation or coercion or to affect the operation of~~
18 ~~government by disruption of public services, mass destruction,~~
19 ~~assassination or kidnapping. Security measures include, but are not limited~~
20 ~~to, intelligence information, tactical plans, resource deployment and~~
21 ~~vulnerability assessments.~~

22 ~~(46) Any information or material received by the register of deeds of~~
23 ~~a county from military discharge papers, DD Form 214. Such papers shall~~
24 ~~be disclosed: To the military dischargee; to such dischargee's immediate~~
25 ~~family members and lineal descendants; to such dischargee's heirs, agents~~
26 ~~or assigns; to the licensed funeral director who has custody of the body of~~
27 ~~the deceased dischargee; when required by a department or agency of the~~
28 ~~federal or state government or a political subdivision thereof; when the~~
29 ~~form is required to perfect the claim of military service or honorable~~
30 ~~discharge or a claim of a dependent of the dischargee; and upon the written~~
31 ~~approval of the commissioner of veterans affairs, to a person conducting~~
32 ~~research.~~

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

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

42 ~~(49) An individual's email address, cell phone number and other~~
43 ~~contact information which *that* has been given to the public agency for the~~

1 purpose of public agency notifications or communications which are
2 widely distributed to the public.

3 ~~(50) Information provided by providers to the local collection point
4 administrator or to the 911 coordinating council pursuant to the Kansas
5 911 act, and amendments thereto, upon request of the party submitting
6 such records.~~

7 ~~(51) Records of a public agency on a public website which *that* are
8 searchable by a keyword search and identify the home address or home
9 ownership of a law enforcement officer as defined in K.S.A. 2017 Supp.
10 21-5111, and amendments thereto, parole officer, probation officer, court
11 services officer or community correctional services officer. Such
12 individual officer shall file with the custodian of such record a request to
13 have such officer's identifying information restricted from public access on
14 such public website. Within 10 business days of receipt of such requests,
15 the public agency shall restrict such officer's identifying information from
16 such public access. Such restriction shall expire after five years and such
17 officer may file with the custodian of such record a new request for
18 restriction at any time.~~

19 ~~(52) Records of a public agency on a public website which *that* are
20 searchable by a keyword search and identify the home address or home
21 ownership of a federal judge, a justice of the supreme court, a judge of the
22 court of appeals, a district judge, a district magistrate judge, a municipal
23 judge, the United States attorney for the district of Kansas, an assistant
24 United States attorney, a special assistant United States attorney, the
25 attorney general, an assistant attorney general, a special assistant attorney
26 general, a county attorney, an assistant county attorney, a special assistant
27 county attorney, a district attorney, an assistant district attorney, a special
28 assistant district attorney, a city attorney, an assistant city attorney or a
29 special assistant city attorney. Such person shall file with the custodian of
30 such record a request to have such person's identifying information
31 restricted from public access on such public website. Within 10 business
32 days of receipt of such requests, the public agency shall restrict such
33 person's identifying information from such public access. Such restriction
34 shall expire after five years and such person may file with the custodian of
35 such record a new request for restriction at any time.~~

36 ~~(53) Records of a public agency that would disclose the name, home
37 address, zip code, email address, phone number or cell phone number or
38 other contact information for any person licensed to carry concealed
39 handguns or of any person who enrolled in or completed any weapons
40 training in order to be licensed or has made application for such license
41 under the personal and family protection act, K.S.A. 2017 Supp. 75-7e01
42 et seq., and amendments thereto, shall not be disclosed unless otherwise
43 required by law.~~

1 ~~(54) Records of a utility concerning information about cyber security~~
2 ~~threats, attacks or general attempts to attack utility operations provided to~~
3 ~~law enforcement agencies, the state corporation commission, the federal~~
4 ~~energy regulatory commission, the department of energy, the southwest~~
5 ~~power pool, the North American electric reliability corporation, the federal~~
6 ~~communications commission or any other federal, state or regional~~
7 ~~organization that has a responsibility for the safeguarding of~~
8 ~~telecommunications, electric, potable water, waste water disposal or~~
9 ~~treatment, motor fuel or natural gas energy supply systems.~~

10 ~~(55) Records of a public agency containing information or reports~~
11 ~~obtained and prepared by the office of the state bank commissioner in the~~
12 ~~course of licensing or examining a person engaged in money transmission~~
13 ~~business pursuant to K.S.A. 9-508 et seq., and amendments thereto, shall~~
14 ~~not be disclosed except pursuant to K.S.A. 9-513c, and amendments~~
15 ~~thereto, or unless otherwise required by law.~~

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

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

32 ~~(d) If a public record contains material which *that* is not subject to~~
33 ~~disclosure pursuant to this act, the public agency shall separate or delete~~
34 ~~such material and make available to the requester that material in the~~
35 ~~public record which *that* is subject to disclosure pursuant to this act. If a~~
36 ~~public record is not subject to disclosure because it pertains to an~~
37 ~~identifiable individual, the public agency shall delete the identifying~~
38 ~~portions of the record and make available to the requester any remaining~~
39 ~~portions which *that* are subject to disclosure pursuant to this act, unless the~~
40 ~~request is for a record pertaining to a specific individual or to such a~~
41 ~~limited group of individuals that the individuals' identities are reasonably~~
42 ~~ascertainable, the public agency shall not be required to disclose those~~
43 ~~portions of the record which *that* pertain to such individual or individuals.~~

1 ~~(e) The provisions of this section shall not be construed to exempt~~
2 ~~from public disclosure statistical information not descriptive of any~~
3 ~~identifiable person.~~

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

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

14 ~~(h) (1) Except as provided in K.S.A. 2017 Supp. 45-254, and~~
15 ~~amendments thereto, a public agency shall not disclose criminal~~
16 ~~investigation records while such investigation is active. An investigation~~
17 ~~becomes inactive upon the occurrence of any of the following events:~~

18 ~~(A) A decision by the law enforcement agency not to pursue the case;~~

19 ~~(B) expiration of the time to bring a charge or file a complaint under~~
20 ~~the applicable statute of limitations, or 30 years after the commission of~~
21 ~~the offense, whichever comes earliest; or~~

22 ~~(C) exhaustion of or expiration of all rights of appeal by a person~~
23 ~~convicted on the basis of the criminal investigation records.~~

24 ~~(2) Criminal investigation records related to an inactive investigation~~
25 ~~shall be disclosed, unless disclosure:~~

26 ~~(A) Would interfere with any prospective law enforcement action;~~
27 ~~criminal investigation or prosecution;~~

28 ~~(B) reveal the identity of any confidential source or undercover~~
29 ~~agent;~~

30 ~~(C) reveal confidential investigative techniques or procedures not~~
31 ~~known to the general public;~~

32 ~~(D) endanger the life or physical safety of any person; or~~

33 ~~(E) reveal the name, address, phone number or any other information~~
34 ~~that specifically and individually identifies the victim of any sexual offense~~
35 ~~in article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their~~
36 ~~repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, and~~
37 ~~amendments thereto.~~

38 ~~(3) If a public record is discretionarily closed by a public agency~~
39 ~~pursuant to this subsection, the record custodian, upon request, shall~~
40 ~~provide a written citation to the specific provisions of subsection (h)(2)~~
41 ~~that necessitate closure of that public record.~~

42 ~~(4) Except as provided in K.S.A. 2017 Supp. 45-254, and amendments~~
43 ~~thereto, any audio or video recording made and retained by law-~~

~~1 enforcement using a body camera or vehicle camera as defined by K.S.A.
2 2017 Supp. 45-254, and amendments thereto, that is part of an inactive
3 investigative file and that constitutes a clearly unwarranted invasion of
4 personal privacy as defined in K.S.A. 45-517(b), and amendments thereto,
5 shall not be disclosed, except that the existence of the recording shall be
6 disclosed to any person requesting access to the inactive investigative file.~~

~~7 (5) The district court, in an action brought pursuant to K.S.A. 45-
8 222, and amendments thereto, may order disclosure of any criminal
9 investigation records, subject to such conditions as the court may impose;
10 if the court finds that disclosure:~~

~~11 (A) Is in the public interest;~~

~~12 (B) would not interfere with any prospective law enforcement action;
13 criminal investigation or prosecution;~~

~~14 (C) would not reveal the identity of any confidential source or
15 undercover agent;~~

~~16 (D) would not reveal confidential investigative techniques or
17 procedures not known to the general public;~~

~~18 (E) would not endanger the life or physical safety of any person; and~~

~~19 (F) would not reveal the name, address, phone number or any other
20 information that specifically and individually identifies the victim of any
21 sexual offense in article 35 of chapter 21 of the Kansas Statutes
22 Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas
23 Statutes Annotated, and amendments thereto.~~

24 **See. 3. Section 1.** K.S.A. 2017 Supp. 45-254 is hereby amended to
25 read as follows: 45-254. (a) Every audio or video recording made and
26 retained by law enforcement using a body camera or a vehicle camera
27 shall be considered a criminal investigation record as defined in K.S.A.
28 45-217, and amendments thereto. The provisions of this subsection shall
29 expire on July 1, 2021, unless the legislature reviews and reenacts this
30 provision pursuant to K.S.A. 45-229, and amendments thereto, prior to
31 July 1, 2021.

32 (b) In addition to any disclosure authorized pursuant to the open
33 records act, K.S.A. 45-215 et seq., and amendments thereto, a person
34 described in subsection (c) may request to listen to an audio recording or
35 to view a video recording made by a body camera or a vehicle camera. The
36 law enforcement agency shall allow the person to listen to the requested
37 audio recording or to view the requested video recording ~~within 24 hours~~
38 **20 days** after making the request, and may charge a reasonable fee for
39 such services provided by the law enforcement agency.

40 (c) Any of the following may make a request under subsection (b):

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

42 (2) ~~a~~ **any** parent or legal guardian of a person under 18 years of age
43 who is a subject of the recording;

1 (3) an attorney for a person described in subsection (c)(1) or (c)(2);
2 and

3 ~~(4) an heir at law, an executor or an administrator of a decedent, or~~
4 ~~an individual who has secured a written release from the next of kin of a~~
5 ~~decedent, when the a decedent is a subject of the recording; and~~

6 **(4) an attorney for a person described in this subsection.**

7 ~~(d) A law enforcement agency shall disclose any audio or video~~
8 ~~recording made and retained by the agency using a body camera or a~~
9 ~~vehicle camera within five business days after a request is made by any~~
10 ~~person, if the recording depicts or describes:~~

11 ~~(1) The discharge of a firearm by a law enforcement officer in the~~
12 ~~course of duty, other than the discharge of a firearm for training purposes;~~
13 ~~or the killing of an animal that is sick, injured or dangerous; or~~

14 ~~(2) the use of force by a law enforcement officer that results in great~~
15 ~~bodily harm or death.~~

16 ~~(e) (1) A law enforcement agency shall redact or obscure specific~~
17 ~~portions of any audio or video recording before disclosure that:~~

18 ~~(A) Depicts the death of a person, a dead body, or clearly visible acts~~
19 ~~of severe violence or great bodily harm against a person, unless the death~~
20 ~~or act was caused by a law enforcement officer;~~

21 ~~(B) depicts nudity or sexual conduct as defined in K.S.A. 2017 Supp.~~
22 ~~21-6402, and amendments thereto;~~

23 ~~(C) reveals the identity of any confidential source or undercover~~
24 ~~agent;~~

25 ~~(D) reveals confidential investigative techniques or procedures not~~
26 ~~known to the general public;~~

27 ~~(E) endangers the life or physical safety of any person;~~

28 ~~(F) reveals the name, address, phone number or any other~~
29 ~~information that specifically and individually identifies the victim of any~~
30 ~~sexual offense in article 35 of chapter 21 of the Kansas Statutes~~
31 ~~Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas~~
32 ~~Statutes Annotated, and amendments thereto;~~

33 ~~(G) identifies a minor under the age of 16 or undermines the~~
34 ~~confidentiality requirements for juvenile records as provided in chapter 38~~
35 ~~of the Kansas Statutes Annotated, and amendments thereto;~~

36 ~~(H) includes confidential medical information or personal~~
37 ~~information as defined in K.S.A. 2017 Supp. 50-7a01, and amendments~~
38 ~~thereto; or~~

39 ~~(I) reveals the name or license plate number of a person not arrested,~~
40 ~~cited, charged or issued a written warning.~~

41 ~~(2) This subsection shall not apply to requests made by a person~~
42 ~~described in subsection (e).~~

43 ~~(f) (1) A law enforcement agency may redact or obscure specific~~

1 ~~portions of any audio or video recording before disclosure that reveals the~~
2 ~~identify of a law enforcement officer who is subject to an internal~~
3 ~~investigation as a result of an event depicted in the recording, except as~~
4 ~~provided in subsection (f)(2).~~

5 ~~(2) (A) A law enforcement agency shall not redact the identity of a~~
6 ~~law enforcement officer after the agency has concluded the investigation~~
7 ~~or rendered a decision as to final disciplinary action, and the records~~
8 ~~previously withheld, redacted or obscured under this section shall be made~~
9 ~~available for public inspection and copying.~~

10 ~~(B) If such investigation lasts for longer than 270 days, video and~~
11 ~~audio recordings not disclosed, redacted or obscured under this section~~
12 ~~shall be made available for public inspection and copying.~~

13 ~~(g) As used in this section:~~

14 (1) "Body camera" means a device that is worn by a law enforcement
15 officer that electronically records audio or video of such officer's activities.

16 (2) "Heir at law" means: (A) ~~The spouse of the decedent, if living;~~ (B)
17 ~~if there is no living spouse of the decedent, an adult child of the decedent,~~
18 ~~if living; or (C) if there is no living spouse or adult child, a parent of the~~
19 ~~decedent, if living. It shall be the responsibility of the heir at law to show~~
20 ~~proof of the familial relationship~~ **An executor or an administrator of a**
21 **decedent; (B) the spouse of the decedent, if living; (C) if there is no**
22 **living spouse of a decedent, an adult child of a decedent, if living; or**
23 **(D) if there is no living spouse or adult child of a decedent, a parent of**
24 **a decedent, if living.**

25 (3) "Vehicle camera" means a device that is attached to a law
26 enforcement vehicle that electronically records audio or video of law
27 enforcement officers' activities.

28 ~~Sec. 4. 2. K.S.A. 2017 Supp. 45-219, 45-221 and 45-254 are is~~
29 ~~hereby repealed.~~

30 ~~Sec. 5. 3. This act shall take effect and be in force from and after its~~
31 ~~publication in the statute book.~~