

Public Records; Disclosure of Information Regarding Child Fatalities or Near Fatalities; Law Enforcement Recordings; Redaction of Social Security Numbers; Kansas Open Records Act—Exceptions; House Sub. for SB 336

House Sub. for SB 336 amends various law related to public records.

Disclosure of Information Under the Revised Kansas Code for Care of Children

The bill amends the statute in the Revised Kansas Code for Care of Children (also known as the CINC Code) governing access to information concerning a child alleged or adjudicated to be in need of care and child fatalities.

A provision allowing a court to order disclosure of confidential agency records if such records are necessary for the proceedings of the court and are otherwise admissible as evidence is amended to remove the requirement that such records be admissible as evidence.

Provisions requiring disclosure, pursuant to the Kansas Open Records Act (KORA), of records or reports related to a child fatality or near fatality resulting from child abuse or neglect, but allowing for the filing of a motion with a court by the Secretary for Children and Families (Secretary) or any affected individual to prevent disclosure of such records, are amended to require notice of the filing of such motion to all parties requesting the records or report and provide such parties with the right to request and receive a hearing prior to the entry of an order on the motion. The bill adds the “public’s interest in the disclosure of such records or reports” to the factors the court must consider when ruling on the motion.

The bill adds a provision requiring the Secretary, as allowed by applicable law, to release the following information when child abuse or neglect results in a child fatality and a request is made under KORA, within seven business days of receipt of such request:

- Age and sex of the child;
- Date of the fatality;
- A summary of any previous reports of abuse or neglect received by the Secretary involving the child, along with the findings of such reports; and
- Any service recommended by the Department for Children and Families (DCF) and provided to the child.

The bill adds a similar provision requiring the Secretary, as allowed by applicable law, to release the following information when a child fatality occurs while the child was in the custody of the Secretary and a request is made under KORA, within seven business days of receipt of such request:

- Age and sex of the child;

- Date of the fatality; and
- A summary of the facts surrounding the death of the child.

Disclosure of Law Enforcement Audio or Video Recordings

The bill amends the statute governing disclosure of audio or video recordings made and retained by law enforcement using a body camera or a vehicle camera (law enforcement recordings).

Under continuing law, the statute allows, in addition to any disclosure authorized under KORA, certain persons to request to listen to or view law enforcement recordings and requires the law enforcement agency to allow such listening or viewing. The bill adds a provision requiring the agency to allow the listening or viewing within 20 days after the request is made.

Under continuing law, an “heir at law” is one of the persons who may make the request. The bill adds the attorney for an heir at law to the list of persons who may make the request. The bill also adds a definition for “heir at law” to include an executor or an administrator of a decedent; the living spouse of a decedent; if there is no living spouse of a decedent, a living adult child of a decedent; or, if there is no living spouse or adult child of a decedent, a living parent of a decedent. [Note: Under prior law, an executor or administrator of a decedent could make a request, so the bill changes only the organization, not the substance, of the law allowing these persons to make a request.]

In the list of requesters, the bill changes “a parent or legal guardian of a person under 18 years of age who is a subject of the recording” to “any parent or legal guardian of a person under 18 years of age who is a subject of the recording.”

The bill clarifies that requests to listen to or view a law enforcement recording are to be made in accordance with procedures adopted by public agencies pursuant to KORA requirements.

Redaction of Social Security Numbers and Notice of Disclosure

The bill amends law related to the disclosure of personal information on public records to require the redaction of all portions of an individual’s Social Security number on any document or record before it is made available for public inspection or copying. The provisions of the bill do not apply to documents recorded in the official records of any county recorder of deeds or in the official records of the courts.

The bill also requires an agency to:

- Give notice, as defined in the consumer information protection statutes, to any individual when the agency becomes aware of the unauthorized disclosure of the individual’s personal information. Notice must be given as expeditiously as possible and without unreasonable delay, while also considering the legitimate

needs of law enforcement and any measures necessary to determine the scope of unauthorized disclosure;

- Offer to the affected individual credit monitoring services at no cost for one year;
- Provide all information necessary for the affected individual to enroll in such credit monitoring services; and
- Provide information to the affected individual on how a security freeze could be placed on the individual's consumer report.

Continuation and Elimination of KORA Exceptions

The bill continues in existence the following exceptions to KORA:

- KSA 9-513c, concerning information or reports obtained and prepared by the State Bank Commissioner in the course of licensing or examining a person engaged in money transmission business (the bill also removes an expiration provision in KSA 9-513c);
- KSA 39-709, concerning results of drug screenings administered under the cash assistance program;
- KSA 45-221(a)(26), concerning records of a utility or other public service pertaining to individually identifiable residential customers;
- KSA 45-221(a)(53), concerning records disclosing name or contact information for any person who is licensed to carry concealed handguns, enrolled in or completed any weapons training in order to be licensed, or has made application for such license under the Personal and Family Protection Act;
- KSA 45-221(a)(54), concerning records of a utility related to cybersecurity threats, attacks, or general attempts to attack utility operations;
- KSA 65-6832 and KSA 65-6834, concerning protected health information;
- KSA 75-7c06, concerning records relating to licenses issued pursuant to the PFFPA; and
- KSA 75-7c20, concerning security plans adopted to exempt a state or municipal building from law stating the carrying of a concealed handgun shall not be prohibited in any public area of any state or municipal building.

The bill amends three statutes within the Viatical Settlements Act of 2002 that were reviewed and continued in 2013 to remove specific expiration provisions.

The bill removes an exception preventing the disclosure of the name of any voter who has cast a ballot from the time the ballot is cast until the final canvass of the election by the county board of canvassers.