

## HOUSE BILL No. 2096

By Committee on Judiciary

1-21

1 AN ACT concerning the Kansas open records act; relating to exceptions to  
2 disclosure; public websites that identify home addresses or home  
3 ownership; restricting access to identifying information of employees  
4 of the department of corrections, local correctional officers or local  
5 detention officers, employees of the judicial branch, employees of a  
6 municipal court and administrative hearing officers; amending K.S.A.  
7 2020 Supp. 45-221 and repealing the existing section.

8  
9 *Be it enacted by the Legislature of the State of Kansas:*

10 Section 1. K.S.A. 2019 Supp. 45-221 is hereby amended to read as  
11 follows: 45-221. (a) Except to the extent disclosure is otherwise required  
12 by law, a public agency shall not be required to disclose:

13 (1) Records the disclosure of which is specifically prohibited or  
14 restricted by federal law, state statute or rule of the Kansas supreme court  
15 or rule of the senate committee on confirmation oversight relating to  
16 information submitted to the committee pursuant to K.S.A. 75-4315d, and  
17 amendments thereto, or the disclosure of which is prohibited or restricted  
18 pursuant to specific authorization of federal law, state statute or rule of the  
19 Kansas supreme court or rule of the senate committee on confirmation  
20 oversight relating to information submitted to the committee pursuant to  
21 K.S.A. 75-4315d, and amendments thereto, to restrict or prohibit  
22 disclosure.

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

25 (3) Medical, psychiatric, psychological or alcoholism or drug  
26 dependency treatment records ~~which~~ ~~pertain~~ *pertaining* to identifiable  
27 patients.

28 (4) Personnel records, performance ratings or individually identifiable  
29 records pertaining to employees or applicants for employment, except that  
30 this exemption shall not apply to the names, positions, salaries or actual  
31 compensation employment contracts or employment-related contracts or  
32 agreements and lengths of service of officers and employees of public  
33 agencies once they are employed as such.

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

36 (6) Letters of reference or recommendation pertaining to the character

1 or qualifications of an identifiable individual, except documents relating to  
2 the appointment of persons to fill a vacancy in an elected office.

3 (7) Library, archive and museum materials contributed by private  
4 persons, to the extent of any limitations imposed as conditions of the  
5 contribution.

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

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

15 (10) Criminal investigation records, except as provided herein. The  
16 district court, in an action brought pursuant to K.S.A. 45-222, and  
17 amendments thereto, may order disclosure of such records, subject to such  
18 conditions as the court may impose, if the court finds that disclosure:

19 (A) Is in the public interest;

20 (B) would not interfere with any prospective law enforcement action,  
21 criminal investigation or prosecution;

22 (C) would not reveal the identity of any confidential source or  
23 undercover agent;

24 (D) would not reveal confidential investigative techniques or  
25 procedures not known to the general public;

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

27 (F) would not reveal the name, address, phone number or any other  
28 information ~~which~~ *that* specifically and individually identifies the victim  
29 of any sexual offense *described* in article 35 of chapter 21 of the Kansas  
30 Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the  
31 Kansas Statutes Annotated, and amendments thereto.

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

36 (11) Records of agencies involved in administrative adjudication or  
37 civil litigation, compiled in the process of detecting or investigating  
38 violations of civil law or administrative rules and regulations, if disclosure  
39 would interfere with a prospective administrative adjudication or civil  
40 litigation or reveal the identity of a confidential source or undercover  
41 agent.

42 (12) Records of emergency or security information or procedures of a  
43 public agency, or plans, drawings, specifications or related information for

1 any building or facility—~~which~~ *that* is used for purposes requiring security  
2 measures in or around the building or facility or—~~which~~ is used for the  
3 generation or transmission of power, water, fuels or communications, if  
4 disclosure would jeopardize security of the public agency, building or  
5 facility.

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

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

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

18 (16) Software programs for electronic data processing and  
19 documentation thereof, but each public agency shall maintain a register,  
20 open to the public, that describes:

21 (A) The information—~~which~~ the agency maintains on computer  
22 facilities; and

23 (B) the form in which the information can be made available using  
24 existing computer programs.

25 (17) Applications, financial statements and other information  
26 submitted in connection with applications for student financial assistance  
27 where financial need is a consideration for the award.

28 (18) Plans, designs, drawings or specifications—~~which~~ *that* are  
29 prepared by a person other than an employee of a public agency or records  
30 ~~which~~ *that* are the property of a private person.

31 (19) Well samples, logs or surveys—~~which~~ *that* the state corporation  
32 commission requires to be filed by persons who have drilled or caused to  
33 be drilled, or are drilling or causing to be drilled, holes for the purpose of  
34 discovery or production of oil or gas, to the extent that disclosure is  
35 limited by rules and regulations of the state corporation commission.

36 (20) Notes, preliminary drafts, research data in the process of  
37 analysis, unfunded grant proposals, memoranda, recommendations or  
38 other records in which opinions are expressed or policies or actions are  
39 proposed, except that this exemption shall not apply when such records are  
40 publicly cited or identified in an open meeting or in an agenda of an open  
41 meeting.

42 (21) Records of a public agency having legislative powers,—~~which~~  
43 ~~records~~ ~~pertain~~ *pertaining* to proposed legislation or amendments to

1 proposed legislation, except that this exemption shall not apply when such  
2 records are:

3 (A) Publicly cited or identified in an open meeting or in an agenda of  
4 an open meeting; or

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

8 (22) Records of a public agency having legislative powers, ~~which~~  
9 ~~records pertain~~ *pertaining* to research prepared for one or more members  
10 of such agency, except that this exemption shall not apply when such  
11 records are:

12 (A) Publicly cited or identified in an open meeting or in an agenda of  
13 an open meeting; or

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

17 (23) Library patron and circulation records ~~which pertain~~ *pertaining*  
18 to identifiable individuals.

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

21 (25) Records ~~which~~ *that* represent and constitute the work product of  
22 an attorney.

23 (26) Records of a utility or other public service pertaining to  
24 individually identifiable residential customers of the utility or service.

25 (27) Specifications for competitive bidding, until the specifications  
26 are officially approved by the public agency.

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

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

31 (A) The name; photograph and other identifying information;  
32 sentence data; parole eligibility date; custody or supervision level;  
33 disciplinary record; supervision violations; conditions of supervision,  
34 excluding requirements pertaining to mental health or substance abuse  
35 counseling; location of facility where incarcerated or location of parole  
36 office maintaining supervision and address of a releasee whose crime was  
37 committed after the effective date of this act shall be subject to disclosure  
38 to any person other than another inmate or releasee, except that the  
39 disclosure of the location of an inmate transferred to another state pursuant  
40 to the interstate corrections compact shall be at the discretion of the  
41 secretary of corrections;

42 (B) the attorney general, law enforcement agencies, counsel for the  
43 inmate to whom the record pertains and any county or district attorney

1 shall have access to correctional records to the extent otherwise permitted  
2 by law;

3 (C) the information provided to the law enforcement agency pursuant  
4 to the sex offender registration act, K.S.A. 22-4901 et seq., and  
5 amendments thereto, shall be subject to disclosure to any person, except  
6 that the name, address, telephone number or any other information ~~which~~  
7 *that* specifically and individually identifies the victim of any offender  
8 required to register as provided by the Kansas offender registration act,  
9 K.S.A. 22-4901 et seq., and amendments thereto, shall not be disclosed;  
10 and

11 (D) records of the department of corrections regarding the financial  
12 assets of an offender in the custody of the secretary of corrections shall be  
13 subject to disclosure to the victim, or such victim's family, of the crime for  
14 which the inmate is in custody as set forth in an order of restitution by the  
15 sentencing court.

16 (30) Public records containing information of a personal nature where  
17 the public disclosure thereof would constitute a clearly unwarranted  
18 invasion of personal privacy.

19 (31) Public records pertaining to prospective location of a business or  
20 industry where no previous public disclosure has been made of the  
21 business' or industry's interest in locating in, relocating within or  
22 expanding within the state. This exception shall not include those records  
23 pertaining to application of agencies for permits or licenses necessary to  
24 do business or to expand business operations within this state, except as  
25 otherwise provided by law.

26 (32) Engineering and architectural estimates made by or for any  
27 public agency relative to public improvements.

28 (33) Financial information submitted by contractors in qualification  
29 statements to any public agency.

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

35 (35) Any report or record ~~which~~ *that* is made pursuant to K.S.A. 65-  
36 4922, 65-4923 or 65-4924, and amendments thereto, and ~~which~~ is  
37 privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments  
38 thereto.

39 (36) Information ~~which~~ *that* would reveal the precise location of an  
40 archeological site.

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

1 (38) Risk-based capital reports, risk-based capital plans and  
2 corrective orders including the working papers and the results of any  
3 analysis filed with the commissioner of insurance in accordance with  
4 K.S.A. 40-2c20 and 40-2d20, and amendments thereto.

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

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

10 (41) All financial analysis ratios and examination synopses  
11 concerning insurance companies that are submitted to the commissioner by  
12 the national association of insurance commissioners' insurance regulatory  
13 information system.

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

16 (43) Market research, market plans, business plans and the terms and  
17 conditions of managed care or other third-party contracts, developed or  
18 entered into by the university of Kansas medical center in the operation  
19 and management of the university hospital ~~which~~ *that* the chancellor of the  
20 university of Kansas or the chancellor's designee determines would give an  
21 unfair advantage to competitors of the university of Kansas medical center.

22 (44) The amount of franchise tax paid to the secretary of revenue or  
23 the secretary of state by domestic corporations, foreign corporations,  
24 domestic limited liability companies, foreign limited liability companies,  
25 domestic limited partnership, foreign limited partnership, domestic limited  
26 liability partnerships and foreign limited liability partnerships.

27 (45) Records, other than criminal investigation records, the disclosure  
28 of which would pose a substantial likelihood of revealing security  
29 measures that protect: (A) Systems, facilities or equipment used in the  
30 production, transmission or distribution of energy, water or  
31 communications services; (B) transportation and sewer or wastewater  
32 treatment systems, facilities or equipment; or (C) private property or  
33 persons, if the records are submitted to the agency. For purposes of this  
34 paragraph, security means measures that protect against criminal acts  
35 intended to intimidate or coerce the civilian population, influence  
36 government policy by intimidation or coercion or to affect the operation of  
37 government by disruption of public services, mass destruction,  
38 assassination or kidnapping. Security measures include, but are not limited  
39 to, intelligence information, tactical plans, resource deployment and  
40 vulnerability assessments.

41 (46) Any information or material received by the register of deeds of  
42 a county from military discharge papers, DD Form 214. Such papers shall  
43 be disclosed: To the military dischargee; to such dischargee's immediate

1 family members and lineal descendants; to such dischargee's heirs, agents  
2 or assigns; to the licensed funeral director who has custody of the body of  
3 the deceased dischargee; when required by a department or agency of the  
4 federal or state government or a political subdivision thereof; when the  
5 form is required to perfect the claim of military service or honorable  
6 discharge or a claim of a dependent of the dischargee; and upon the written  
7 approval of the commissioner of veterans affairs, to a person conducting  
8 research.

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

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

18 (49) An individual's e-mail address, cell phone number and other  
19 contact information ~~which~~ *that* has been given to the public agency for the  
20 purpose of public agency notifications or communications ~~which~~ *that* are  
21 widely distributed to the public.

22 (50) Information provided by providers to the local collection point  
23 administrator or to the 911 coordinating council pursuant to the Kansas  
24 911 act, ~~and amendments thereto~~, upon request of the party submitting  
25 such records.

26 (51) Records of a public agency on a public website ~~which~~ *that* are  
27 searchable by a keyword search and identify the home address or home  
28 ownership of: A law enforcement officer, as defined in K.S.A. 2020 Supp.  
29 21-5111, and amendments thereto; *a parole officer; a probation officer;*  
30 *a court services officer* ~~or~~ *a community correctional services officer; an*  
31 *employee of the department of corrections; a local correctional officer or*  
32 *local detention officer; an employee of the judicial branch; a federal*  
33 *judge; a justice of the supreme court; a judge of the court of appeals; a*  
34 *district judge; a district magistrate judge; a municipal judge; a presiding*  
35 *officer who conducts hearings pursuant to the Kansas administrative*  
36 *procedure act; an administrative law judge employed by the office of*  
37 *administrative hearings; a member of the state board of tax appeals; an*  
38 *administrative law judge who conducts hearings pursuant to the workers*  
39 *compensation act; a member of the workers' compensation appeals board;*  
40 *an employee of a municipal court; the United States attorney for the*  
41 *district of Kansas; an assistant United States attorney; a special assistant*  
42 *United States attorney; the attorney general; an assistant attorney*  
43 *general; a special assistant attorney general; a county attorney; an*

1 *assistant county attorney; a special assistant county attorney; a district*  
2 *attorney; an assistant district attorney; a special assistant district*  
3 *attorney; a city attorney; an assistant city attorney; or a special assistant*  
4 *city attorney.* Such ~~individual officer~~ *person* shall file with the custodian of  
5 such record a request to have such ~~officer's~~ *person's* identifying  
6 information restricted from public access on such public website. Within  
7 10 business days of receipt of such requests, the public agency shall  
8 restrict such ~~officer's~~ *person's* identifying information from such public  
9 access. Such restriction shall expire after five years and such ~~officer-~~  
10 *person* may file with the custodian of such record a new request for  
11 restriction at any time.

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

29 (53) ~~Records of a public agency that would disclose the name, home~~  
30 ~~address, zip code, e-mail address, phone number or cell phone number or~~  
31 ~~other contact information for any person licensed to carry concealed~~  
32 ~~handguns or of any person who enrolled in or completed any weapons~~  
33 ~~training in order to be licensed or has made application for such license~~  
34 ~~under the personal and family protection act, K.S.A. 75-7c01 et seq., and~~  
35 ~~amendments thereto, shall not be disclosed unless otherwise required by~~  
36 ~~law.~~

37 (54)(53) Records of a utility concerning information about cyber  
38 security threats, attacks or general attempts to attack utility operations  
39 provided to law enforcement agencies, the state corporation commission,  
40 the federal energy regulatory commission, the department of energy, the  
41 southwest power pool, the North American electric reliability corporation,  
42 the federal communications commission or any other federal, state or  
43 regional organization that has a responsibility for the safeguarding of



1 telecommunications, electric, potable water, waste water disposal or  
2 treatment, motor fuel or natural gas energy supply systems.

3 ~~(55)~~(54) Records of a public agency containing information or reports  
4 obtained and prepared by the office of the state bank commissioner in the  
5 course of licensing or examining a person engaged in money transmission  
6 business pursuant to K.S.A. 9-508 et seq., and amendments thereto, shall  
7 not be disclosed except pursuant to K.S.A. 9-513c, and amendments  
8 thereto, or unless otherwise required by law.

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

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

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

38 (e) The provisions of this section shall not be construed to exempt  
39 from public disclosure statistical information not descriptive of any  
40 identifiable person.

41 (f) Notwithstanding the provisions of subsection (a), any public  
42 record ~~which~~ *that* has been in existence more than 70 years shall be open  
43 for inspection by any person unless disclosure of the record is specifically

1 prohibited or restricted by federal law, state statute or rule of the Kansas  
2 supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and  
3 amendments thereto.

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

8 Sec. 2. K.S.A. 2020 Supp. 45-221 is hereby repealed.

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