

**SENATE BILL No. 270**

By Committee on Federal and State Affairs

2-23

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1 AN ACT concerning law enforcement; relating to law enforcement  
2 officers; prohibiting the hiring of certain officers with a history of  
3 serious misconduct or use of excessive force; making certain law  
4 enforcement employment and disciplinary records subject to the open  
5 records act; amending K.S.A. 2020 Supp. 45-221 and repealing the  
6 existing section.

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

9 New Section 1. (a) In order to promote transparency and to protect  
10 law enforcement officers from false accusations, all law enforcement  
11 agencies in this state shall adopt a detailed, written policy prohibiting the  
12 hiring of law enforcement officers with a history of serious misconduct or  
13 use of excessive force.

14 (b) Policies adopted pursuant to this section shall be implemented by  
15 all Kansas law enforcement agencies prior to July 1, 2022. Such policies  
16 shall be public records and be made available for public inspection during  
17 normal business hours.

18 (c) The policies adopted pursuant to this section shall include, but not  
19 be limited to the prohibition of a law enforcement agency hiring an  
20 applicant:

21 (1) Previously employed by such agency if the applicant has been  
22 fired by or resigned from such agency during the pendency of an  
23 investigation alleging serious misconduct or use of excessive force on the  
24 part of the officer; and

25 (2) after receipt of an applicant's files obtained pursuant to K.S.A. 75-  
26 4379, and amendments thereto, if such applicant has been fired by or  
27 resigned from another law enforcement agency during the pendency of an  
28 investigation alleging serious misconduct or excessive force on the part of  
29 the officer.

30 Sec. 2. K.S.A. 2020 Supp. 45-221 is hereby amended to read as  
31 follows: 45-221. (a) Except to the extent disclosure is otherwise required  
32 by law, a public agency shall not be required to disclose:

33 (1) Records the disclosure of which is specifically prohibited or  
34 restricted by federal law, state statute or rule of the Kansas supreme court  
35 or rule of the senate committee on confirmation oversight relating to  
36 information submitted to the committee pursuant to K.S.A. 75-4315d, and

1 amendments thereto, or the disclosure of which is prohibited or restricted  
2 pursuant to specific authorization of federal law, state statute or rule of the  
3 Kansas supreme court or rule of the senate committee on confirmation  
4 oversight relating to information submitted to the committee pursuant to  
5 K.S.A. 75-4315d, and amendments thereto, to restrict or prohibit  
6 disclosure.

7 (2) Records which are privileged under the rules of evidence, unless  
8 the holder of the privilege consents to the disclosure.

9 (3) Medical, psychiatric, psychological or alcoholism or drug  
10 dependency treatment records which pertain to identifiable patients.

11 (4) Personnel records, performance ratings or individually identifiable  
12 records pertaining to employees or applicants for employment, except that  
13 this exemption shall not apply to:

14 (A) The names, positions, salaries or actual compensation  
15 employment contracts or employment-related contracts or agreements and  
16 lengths of service of officers and employees of public agencies once they  
17 are employed as such; and

18 (B) *law enforcement employment and disciplinary records alleging*  
19 *serious misconduct or use of excessive force by a law enforcement officer;*  
20 *unless disclosure of such records are otherwise restricted or prohibited by*  
21 *law. A state or local law enforcement agency or governmental entity shall:*

22 (i) *Redact personally identifiable information of persons other than*  
23 *the law enforcement officer that is the subject of the allegation contained*  
24 *in such records; and*

25 (ii) *separate or delete information not subject to disclosure and make*  
26 *available to the requester that material in the public record that is subject*  
27 *to disclosure pursuant to subsection (d).*

28 (5) Information which would reveal the identity of any undercover  
29 agent or any informant reporting a specific violation of law.

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

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

36 (8) Information which would reveal the identity of an individual who  
37 lawfully makes a donation to a public agency, if anonymity of the donor is  
38 a condition of the donation, except if the donation is intended for or  
39 restricted to providing remuneration or personal tangible benefit to a  
40 named public officer or employee.

41 (9) Testing and examination materials, before the test or examination  
42 is given or if it is to be given again, or records of individual test or  
43 examination scores, other than records which show only passage or failure

1 and not specific scores.

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

6 (A) Is in the public interest;

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

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

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

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

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

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

23 (11) Records of agencies involved in administrative adjudication or  
24 civil litigation, compiled in the process of detecting or investigating  
25 violations of civil law or administrative rules and regulations, if disclosure  
26 would interfere with a prospective administrative adjudication or civil  
27 litigation or reveal the identity of a confidential source or undercover  
28 agent.

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

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

39 (14) Correspondence between a public agency and a private  
40 individual, other than correspondence which is intended to give notice of  
41 an action, policy or determination relating to any regulatory, supervisory or  
42 enforcement responsibility of the public agency or which is widely  
43 distributed to the public by a public agency and is not specifically in

1 response to communications from such a private individual.

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

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

8 (A) The information which the agency maintains on computer  
9 facilities; and

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

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

15 (18) Plans, designs, drawings or specifications which are prepared by  
16 a person other than an employee of a public agency or records which are  
17 the property of a private person.

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

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

29 (21) Records of a public agency having legislative powers, which  
30 records pertain to proposed legislation or amendments to proposed  
31 legislation, except that this exemption shall not apply when such records  
32 are:

33 (A) Publicly cited or identified in an open meeting or in an agenda of  
34 an open meeting; or

35 (B) distributed to a majority of a quorum of any body which has  
36 authority to take action or make recommendations to the public agency  
37 with regard to the matters to which such records pertain.

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

41 (A) Publicly cited or identified in an open meeting or in an agenda of  
42 an open meeting; or

43 (B) distributed to a majority of a quorum of any body which has

1 authority to take action or make recommendations to the public agency  
2 with regard to the matters to which such records pertain.

3 (23) Library patron and circulation records which pertain to  
4 identifiable individuals.

5 (24) Records which are compiled for census or research purposes and  
6 which pertain to identifiable individuals.

7 (25) Records which represent and constitute the work product of an  
8 attorney.

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

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

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

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

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

28 (B) the attorney general, law enforcement agencies, counsel for the  
29 inmate to whom the record pertains and any county or district attorney  
30 shall have access to correctional records to the extent otherwise permitted  
31 by law;

32 (C) the information provided to the law enforcement agency pursuant  
33 to the sex offender registration act, K.S.A. 22-4901 et seq., and  
34 amendments thereto, shall be subject to disclosure to any person, except  
35 that the name, address, telephone number or any other information which  
36 specifically and individually identifies the victim of any offender required  
37 to register as provided by the Kansas offender registration act, K.S.A. 22-  
38 4901 et seq., and amendments thereto, shall not be disclosed; and

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

1 (30) Public records containing information of a personal nature where  
2 the public disclosure thereof would constitute a clearly unwarranted  
3 invasion of personal privacy.

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

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

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

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

20 (35) Any report or record which is made pursuant to K.S.A. 65-4922,  
21 65-4923 or 65-4924, and amendments thereto, and which is privileged  
22 pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.

23 (36) Information which would reveal the precise location of an  
24 archeological site.

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

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

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

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

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

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

43 (43) Market research, market plans, business plans and the terms and

1 conditions of managed care or other third-party contracts, developed or  
2 entered into by the university of Kansas medical center in the operation  
3 and management of the university hospital which the chancellor of the  
4 university of Kansas or the chancellor's designee determines would give an  
5 unfair advantage to competitors of the university of Kansas medical center.

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

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

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

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

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

1 to the department of labor for their business purposes.

2 (49) An individual's e-mail address, cell phone number and other  
3 contact information which has been given to the public agency for the  
4 purpose of public agency notifications or communications which are  
5 widely distributed to the public.

6 (50) Information provided by providers to the local collection point  
7 administrator or to the 911 coordinating council pursuant to the Kansas  
8 911 act, and amendments thereto, upon request of the party submitting  
9 such records.

10 (51) Records of a public agency on a public website which are  
11 searchable by a keyword search and identify the home address or home  
12 ownership of a law enforcement officer as defined in K.S.A. 2020 Supp.  
13 21-5111, and amendments thereto, parole officer, probation officer, court  
14 services officer or community correctional services officer. Such  
15 individual officer shall file with the custodian of such record a request to  
16 have such officer's identifying information restricted from public access on  
17 such public website. Within 10 business days of receipt of such requests,  
18 the public agency shall restrict such officer's identifying information from  
19 such public access. Such restriction shall expire after five years and such  
20 officer may file with the custodian of such record a new request for  
21 restriction at any time.

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

39 (53) Records of a public agency that would disclose the name, home  
40 address, zip code, e-mail address, phone number or cell phone number or  
41 other contact information for any person licensed to carry concealed  
42 handguns or of any person who enrolled in or completed any weapons  
43 training in order to be licensed or has made application for such license

1 under the personal and family protection act, K.S.A. 75-7c01 et seq., and  
2 amendments thereto, shall not be disclosed unless otherwise required by  
3 law.

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

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

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

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

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

1 individuals that the individuals' identities are reasonably ascertainable, the  
2 public agency shall not be required to disclose those portions of the record  
3 which pertain to such individual or individuals.

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

7 (f) Notwithstanding the provisions of subsection (a), any public  
8 record which has been in existence more than 70 years shall be open for  
9 inspection by any person unless disclosure of the record is specifically  
10 prohibited or restricted by federal law, state statute or rule of the Kansas  
11 supreme court or by a policy adopted pursuant to K.S.A. 72-6311, and  
12 amendments thereto.

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

17 Sec. 3. K.S.A. 2020 Supp. 45-221 is hereby repealed.

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