

REPORTS OF STANDING COMMITTEES

MADAM PRESIDENT:

The Committee on **Ethics, Elections and Local Government** recommends **SB 454** be amended on page 1, following line 5, by inserting:

"Section 1. K.S.A. 2019 Supp. 45-217 is hereby amended to read as follows: 45-217.

As used in the open records act, unless the context otherwise requires:

(a) "Business day" means any day other than a Saturday, Sunday or day designated as a holiday by the congress of the United States, by the legislature or governor of this state or by the respective political subdivision of this state.

(b) "Clearly unwarranted invasion of personal privacy" means revealing information that would be highly offensive to a reasonable person, including information that may pose a risk to a person or property and is not of legitimate concern to the public.

(c) "Criminal investigation records" means: (1) Every audio or video recording made and retained by law enforcement using a body camera or vehicle camera as defined by K.S.A. 2019 Supp. 45-254, and amendments thereto; and (2) records of an investigatory agency or criminal justice agency as defined by K.S.A. 22-4701, and amendments thereto, compiled in the process of preventing, detecting or investigating violations of criminal law, but does not include police blotter entries, court records, rosters of inmates of jails or other correctional or detention facilities or records pertaining to violations of any traffic law other than vehicular homicide as defined by K.S.A. 21-3405, prior to its repeal, or K.S.A. 2019 Supp. 21-5406, and amendments thereto.

(d) "Custodian" means the official custodian or any person designated by the official

custodian to carry out the duties of custodian of this act.

(e) "Cybersecurity assessment" means an investigation undertaken by a person, governmental body or other entity to identify vulnerabilities in cybersecurity plans.

(f) "Cybersecurity plan" means information about a person's information systems, network security, encryption, network mapping, access control, passwords, authentication practices, computer hardware or software or response to cybersecurity incidents.

(g) "Cybersecurity vulnerability" means a deficiency within computer hardware or software, or within a computer network or information system, that could be exploited by unauthorized parties for use against an individual computer user or a computer network or information system.

(h) "Official custodian" means any officer or employee of a public agency who is responsible for the maintenance of public records, regardless of whether such records are in the officer's or employee's actual personal custody and control.

~~(i)~~(i) (1) "Public agency" means the state or any political or taxing subdivision of the state or any office, agency or instrumentality thereof, or any other entity receiving or expending and supported in whole or in part by the public funds appropriated by the state or by public funds of any political or taxing subdivision of the state.

(2) "Public agency" ~~shall~~ does not include:

(A) Any entity solely by reason of payment from public funds for property, goods or services of such entity; or (B) any municipal judge, judge of the district court, judge of the court of appeals or justice of the supreme court.

~~(g)~~(j) (1) "Public record" means any recorded information, regardless of form, characteristics or location, which is made, maintained or kept by or is in the possession of:

(A) Any public agency; or

(B) any officer or employee of a public agency pursuant to the officer's or employee's official

duties and which is related to the functions, activities, programs or operations of any public agency.

(2) "Public record" shall include, but not be limited to, an agreement in settlement of litigation involving the Kansas public employees retirement system and the investment of moneys of the fund.

(3) Notwithstanding the provisions of subsection ~~(g)~~ (j)(1), "public record" ~~shall~~ does not include:

(A) Records ~~which~~ that are owned by a private person or entity and are not related to functions, activities, programs or operations funded by public funds. As used in this subparagraph, "private person" ~~shall~~ does not include an officer or employee of a public agency who is acting pursuant to the officer's or employee's official duties;

(B) records ~~which~~ that are made, maintained or kept by an individual who is a member of the legislature or of the governing body of any political or taxing subdivision of the state; or

(C) records of employers related to the employer's individually identifiable contributions made on behalf of employees for workers compensation, social security, unemployment insurance or retirement. The provisions of this subparagraph shall not apply to records of employers of lump-sum payments for contributions as described in this subparagraph paid for any group, division or section of an agency.

~~(h)~~(k) "Undercover agent" means an employee of a public agency responsible for criminal law enforcement who is engaged in the detection or investigation of violations of criminal law in a capacity where such employee's identity or employment by the public agency is secret.";

On page 2, in line 38, after "agency" by inserting ", if disclosure would jeopardize public safety, including records of cybersecurity plans, cybersecurity assessments and cybersecurity vulnerabilities or procedures related to cybersecurity plans, cybersecurity assessments and cybersecurity vulnerabilities";

On page 8, by striking all in lines 28 through 42;

On page 9, in line 41, after "Supp." by inserting "45-217 and"; also in line 41, by striking "is" and

inserting "are";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, by striking "election security records and cyber security records" and inserting "cybersecurity assessments, cybersecurity plans and cybersecurity vulnerabilities"; in line 3, after "Supp." by inserting "45-217 and"; also in line 3, by striking "section" and inserting "sections"; and the bill be passed as amended.

Chairperson