

## CONFERENCE COMMITTEE REPORT

MR. SPEAKER and MR. PRESIDENT: Your committee on conference on Senate amendments to **HB 2134** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee amendments, as follows:

On page 4, following line 6, by inserting:

"Sec. 2. K.S.A. 2024 Supp. 45-221 is hereby amended to read as follows: 45-221. (a) Except to the extent disclosure is otherwise required by law, a public agency shall not be required to disclose:

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

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

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

(4) Personnel records, performance ratings or individually identifiable records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries or actual compensation employment contracts or employment-

related contracts or agreements and lengths of service of officers and employees of public agencies once they are employed as such.

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

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

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

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

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

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

(A) Is in the public interest;

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

- (C) would not reveal the identity of any confidential source or undercover agent;
- (D) would not reveal confidential investigative techniques or procedures not known to the general public;
- (E) would not endanger the life or physical safety of any person; and
- (F) would not reveal the name, address, phone number or any other information that specifically and individually identifies the victim of any sexual offense described in article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto.

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

(11) Records of agencies involved in administrative adjudication or civil litigation, compiled in the process of detecting or investigating violations of civil law or administrative rules and regulations, if:

(A) Disclosure would interfere with a prospective administrative adjudication or civil litigation-~~or~~;

(B) disclosure would reveal the identity of a confidential source or undercover agent; or

(C) the investigation is formally closed and the agency determines that no violation occurred.

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

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

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

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

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

- (A) The information that the agency maintains on computer facilities; and
- (B) the form in which the information can be made available using existing computer programs.

(17) Applications, financial statements and other information submitted in connection

with applications for student financial assistance where financial need is a consideration for the award.

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

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

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

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

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

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

(22) Records of a public agency having legislative powers that pertain to research prepared for one or more members of such agency, except that this exemption shall not apply

when such records are:

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

or

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

(23) Library patron and circulation records that pertain to identifiable individuals.

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

(25) Records that represent and constitute the work product of an attorney.

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

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

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

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

(A) The name; photograph and other identifying information; sentence data; parole eligibility date; custody or supervision level; disciplinary record; supervision violations; conditions of supervision, excluding requirements pertaining to mental health or substance abuse counseling; location of facility where incarcerated or location of parole office maintaining supervision and address of a releasee whose crime was committed after the effective date of this act shall be subject to disclosure to any person other than another inmate or releasee, except that

the disclosure of the location of an inmate transferred to another state pursuant to the interstate corrections compact shall be at the discretion of the secretary of corrections;

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

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

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

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

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

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

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

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

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

(36) Information that would reveal the precise location of an archeological site.

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

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

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

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

(41) All financial analysis ratios and examination synopses concerning insurance



companies that are submitted to the commissioner by the national association of insurance commissioners' insurance regulatory information system.

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

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

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

(45) Records, other than criminal investigation records, the disclosure of which would pose a substantial likelihood of revealing security measures that protect:

(A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services;

(B) transportation and sewer or wastewater treatment systems, facilities or equipment;  
or

(C) private property or persons, if the records are submitted to the agency. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or

coercion or to affect the operation of government by disruption of public services, mass destruction, assassination or kidnapping. Security measures include, but are not limited to, intelligence information, tactical plans, resource deployment and vulnerability assessments.

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

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

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

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

(50) Information provided by providers to the local collection point administrator or to the 911 coordinating council pursuant to the Kansas 911 act upon request of the party submitting such records.

(51) Records of a public agency on a public website that are searchable by a keyword search and identify the home address or home ownership of: A law enforcement officer as defined in K.S.A. 21-5111, and amendments thereto; a parole officer; a probation officer; a court services officer; a community correctional services officer; a local correctional officer or local detention officer; a federal judge; a justice of the supreme court; a judge of the court of appeals; a district judge; a district magistrate judge; a municipal judge; a presiding officer who conducts hearings pursuant to the Kansas administrative procedure act; an administrative law judge employed by the office of administrative hearings; a member of the state board of tax appeals; an administrative law judge who conducts hearings pursuant to the workers compensation act; a member of the workers' compensation appeals board; the United States attorney for the district of Kansas; an assistant United States attorney; a special assistant United States attorney; the attorney general; an assistant attorney general; a special assistant attorney general; a county attorney; an assistant county attorney; a special assistant county attorney; a district attorney; an assistant district attorney; a special assistant district attorney; a city attorney; an assistant city attorney; or a special assistant city attorney. Such person shall file with the custodian of such record a request to have such person's identifying information restricted from public access on such public website. Within 10 business days of receipt of such requests, the public agency shall restrict such person's identifying information from such public access. Such restriction shall expire after five years and such person may file with the custodian of such record a new request

for restriction at any time.

(52) Records of a public agency that would disclose the name, home address, zip code, e-mail address, phone number or cell phone number or other contact information for any person licensed to carry concealed handguns or of any person who 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, K.S.A. 75-7c01 et seq., and amendments thereto, shall not be disclosed unless otherwise required by law.

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

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

(55) Records of a public agency that contain captured license plate data or that pertain to the location of an automated license plate recognition system.

(56) Records of a public agency that contain material that is obscene as defined in

K.S.A. 21-6401, and amendments thereto.

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

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

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

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

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

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

Sec. 3. K.S.A. 75-7d01 is hereby amended to read as follows: 75-7d01. (a) There is hereby created in the office of the attorney general a batterer intervention program certification unit.

(b) ~~Except as otherwise provided by law,~~ The books, documents, papers, records or other sources of information obtained and the investigations conducted by the unit shall be confidential as required by state or federal law.

(c) The purpose of the batterer intervention program certification unit is to certify and inspect batterer intervention programs in Kansas. To accomplish this purpose, upon request of the unit, the unit shall have access to all records of reports, investigation documents and written reports of findings related to confirmed cases of domestic violence or exploitation of persons or cases in which there is reasonable suspicion to believe domestic violence has occurred that are received or generated by the Kansas department for children and families, the Kansas department for aging and disability services, the department of health and environment or the Kansas bureau

of investigation.

(d) The attorney general shall develop a set of tools, methodologies, requirements and forms for the domestic violence offender assessment required by K.S.A. 21-6604(p), and amendments thereto. The batterer intervention program tools, methodologies, requirements and forms shall be developed in consultation with the agency certified by the centers for disease control and prevention and the department of health and human services as the domestic violence coalition for the state and with local domestic violence victims' services organizations.

(e) The attorney general may appoint a panel to assist the attorney general by making recommendations regarding the:

- (1) Content and development of a batterer intervention certification program; and
- (2) rules and regulations.

(f) The attorney general may appoint such advisory committees as the attorney general deems necessary to carry out the purposes of the batterer intervention program certification act. Except as provided in K.S.A. 75-3212, and amendments thereto, no member of any such advisory committee shall receive any compensation, subsistence, mileage or other allowance for serving on an advisory committee or attending any meeting thereof.

Sec. 4. K.S.A. 75-753 is hereby amended to read as follows: 75-753. (a) On or before ~~January~~October 15, of each year, the county or district attorney of each county shall report to the attorney general all complaints received during the preceding fiscal year concerning violations of the open records act and open meetings act and the disposition of each complaint.

(b) The attorney general shall compile information received pursuant to subsection (a) with information relating to investigations of violations of the open records act and the open

meetings act conducted by the office of the attorney general. The attorney general shall publish a yearly abstract of such information listing by name the public agencies which are the subject of such complaints or investigations.

Sec. 5. K.S.A. 75-4318 is hereby amended to read as follows: 75-4318. (a) Subject to the provisions of subsection (g), all meetings for the conduct of the affairs of, and the transaction of business by, all legislative and administrative bodies and agencies of the state and political and taxing subdivisions thereof, including boards, commissions, authorities, councils, committees, subcommittees and other subordinate groups thereof, receiving or expending and supported in whole or in part by public funds shall be open to the public and no binding action by such public bodies or agencies shall be by secret ballot. Meetings of task forces, advisory committees or subcommittees of advisory committees created pursuant to a governor's executive order shall be open to the public in accordance with this act.

(b) Notice of the date, time and place of any regular or special meeting of a public body or agency designated in subsection (a) shall be furnished to any person requesting such notice, except that:

(1) If notice is requested by petition, the petition shall designate one person to receive notice on behalf of all persons named in the petition, and notice to such person shall constitute notice to all persons named in the petition;

(2) if notice is furnished to an executive officer of an employees' organization or trade association, such notice shall be deemed to have been furnished to the entire membership of such organization or association; and

(3) the public body or agency may require that a request to receive notice must be



submitted again to the public body or agency prior to the commencement of any subsequent fiscal year of the public body or agency during which the person wishes to continue receiving notice, but, prior to discontinuing notice to any person, the public body or agency must notify the person that notice will be discontinued unless the person resubmits a request to receive notice.

(c) It shall be the duty of the presiding officer or other person calling the meeting, if the meeting is not called by the presiding officer, to furnish the notice required by subsection (b).

(d) Prior to any meeting mentioned by subsection (a), any agenda relating to the business to be transacted at such meeting shall be made available to any person requesting the agenda.

(e) The use of cameras, photographic lights and recording devices shall not be prohibited at any meeting mentioned by subsection (a), but such use shall be subject to reasonable rules designed to insure the orderly conduct of the proceedings at such meeting.

(f) Except as provided by section 22 of article 2 of the constitution of the state of Kansas, interactive communications in a series shall be open if they collectively involve a majority of the membership of the public body or agency, share a common topic of discussion concerning the business or affairs of the public body or agency, and are intended by any or all of the participants to reach agreement on a matter that would require binding action to be taken by the public body or agency.

(g) The provisions of the open meetings law shall not apply:

(1) To any administrative body that is authorized by law to exercise quasi-judicial functions when such body is deliberating matters relating to a decision involving such quasi-judicial functions;

(2) to the prisoner review board when conducting parole hearings or parole violation hearings held at a correctional institution;

(3) to any impeachment inquiry or other impeachment matter referred to any committee of the house of representatives prior to the report of such committee to the full house of representatives; and

(4) if otherwise provided by state or federal law or by rules of the Kansas senate or house of representatives.

(h) When a subcommittee or other subordinate group is created by a public body or agency, whenever a majority of such subcommittee or other subordinate group meets, such subcommittee or other subordinate group shall be subject to the requirements of this act.

(i) Unless otherwise stated in law, a private entity will only be considered a subordinate group of a legislative or administrative body of the state or a political and taxing subdivision if such private entity is under the control, whether directly or indirectly, of a legislative or administrative body of the state or a political and taxing subdivision.

(j) A public body or agency that voluntarily elects to live stream their meeting on television, the internet or any other medium shall ensure that all aspects of the open meeting are available through the selected medium for the public to observe. An unintentional technological failure or an action taken by the provider of the selected medium that disrupts or prevents such live stream shall not constitute a violation of this subsection."

Also on page 4, in line 7, by striking "is" and inserting ", 75-7d01, 75-753 and 75-4318 and K.S.A. 2024 Supp. 45-221 are";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "concerning" by inserting "open records and open meetings; relating to"; by striking all in lines 2 and 3; in line 4, by striking "government" and inserting "furnishing records and employee time required to make records available; exempting records compiled in the process of formally closed investigations with no found violations and records that contain material that is obscene from disclosure; requiring county or district attorneys to file reports of violations of the open records and open meetings act with the attorney general in October instead of January; relating to the open meetings act; determining the membership calculation of subordinate groups; requiring public bodies or agencies that live stream meetings to ensure that the public is able to observe"; also in line 4, after "45-219" by inserting ", 75-7d01, 75-753 and 75-4318 and K.S.A. 2024 Supp. 45-221"; in line 5, by striking "section" and inserting "sections";

And your committee on conference recommends the adoption of this report.

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Conferees on part of Senate

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Conferees on part of House