

## HOUSE BILL No. 2571

By Representative Alcalá

1-30

1 AN ACT concerning the open records act; relating to disclosure of  
2 criminal investigation records; disclosure of law enforcement  
3 recordings using a body camera or vehicle camera; amending K.S.A.  
4 2017 Supp. 45-219, 45-221 and 45-254 and repealing the existing  
5 sections.

6  
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 2017 Supp. 45-219 is hereby amended to read as  
9 follows: 45-219. (a) Any person may make abstracts or obtain copies of  
10 any public record to which such person has access under this act. If copies  
11 are requested, ~~the public agency may require a written request and advance~~  
12 ~~payment of the prescribed fee~~ *payment of copying fees may be required*  
13 *prior to the making of copies.* A public agency shall ~~not be required to~~  
14 *provide copies of public records maintained on computer facilities,* radio  
15 or recording tapes or discs, video tapes or films, pictures, slides, graphics,  
16 illustrations or similar audio or visual items or devices, ~~unless if~~  
17 *duplication equipment is available or if* such items or devices were shown  
18 or played to a public meeting of the governing body thereof, ~~but the.~~ A  
19 public agency shall not be required to provide such items or devices which  
20 are copyrighted by a person other than the public agency.

21 (b) Copies of public records shall be made while the records are in  
22 the possession, custody and control of the custodian or a person designated  
23 by the custodian and shall be made under the supervision of such  
24 custodian or person. When practical, copies shall be made in the place  
25 where the records are kept. If it is impractical to do so, the custodian shall  
26 allow arrangements to be made for use of other facilities. If it is necessary  
27 to use other facilities for copying, the cost thereof shall be paid by the  
28 person desiring a copy of the records. In addition, the public agency may  
29 charge the same fee for the services rendered in supervising the copying as  
30 for furnishing copies under subsection (c) and may establish a reasonable  
31 schedule of times for making copies at other facilities.

32 (c) Except as provided by subsection (f) or where fees for inspection  
33 or for copies of a public record are prescribed by statute, each public  
34 agency may prescribe reasonable fees for providing access to or furnishing  
35 copies of public records, subject to the following:

36 (1) In the case of fees for copies of records, the fees shall not exceed

1 the actual cost of furnishing copies, including the cost of staff time  
2 required to make the information available.

3 (2) In the case of fees for providing access to records maintained on  
4 computer facilities, the fees shall include only the cost of any computer  
5 services, including staff time required.

6 (3) Fees for access to or copies of public records of public agencies  
7 within the legislative branch of the state government shall be established in  
8 accordance with K.S.A. 46-1207a, and amendments thereto.

9 (4) Fees for access to or copies of public records of public agencies  
10 within the judicial branch of the state government shall be established in  
11 accordance with rules of the supreme court.

12 (5) Fees for access to or copies of public records of a public agency  
13 within the executive branch of the state government shall be established by  
14 the agency head. Any person requesting records may appeal the  
15 reasonableness of the fees charged for providing access to or furnishing  
16 copies of such records to the secretary of administration whose decision  
17 shall be final. A fee for copies of public records which is equal to or less  
18 than \$.25 per page shall be deemed a reasonable fee.

19 (d) Except as otherwise authorized pursuant to K.S.A. 75-4215, and  
20 amendments thereto, each public agency within the executive branch of  
21 the state government shall remit all moneys received by or for it from fees  
22 charged pursuant to this section to the state treasurer in accordance with  
23 K.S.A. 75-4215, and amendments thereto. Unless otherwise specifically  
24 provided by law, the state treasurer shall deposit the entire amount thereof  
25 in the state treasury and credit the same to the state general fund or an  
26 appropriate fee fund as determined by the agency head.

27 (e) Each public agency of a political or taxing subdivision shall remit  
28 all moneys received by or for it from fees charged pursuant to this act to  
29 the treasurer of such political or taxing subdivision at least monthly. Upon  
30 receipt of any such moneys, such treasurer shall deposit the entire amount  
31 thereof in the treasury of the political or taxing subdivision and credit the  
32 same to the general fund thereof, unless otherwise specifically provided by  
33 law.

34 (f) Any person who is a certified shorthand reporter may charge fees  
35 for transcripts of such person's notes of judicial or administrative  
36 proceedings in accordance with rates established pursuant to rules of the  
37 Kansas supreme court.

38 (g) Nothing in the open records act shall require a public agency to  
39 electronically make copies of public records by allowing a person to obtain  
40 copies of a public record by inserting, connecting or otherwise attaching  
41 an electronic device provided by such person to the computer or other  
42 electronic device of the public agency.

43 Sec. 2. K.S.A. 2017 Supp. 45-221 is hereby amended to read as

1 follows: 45-221. (a) Except to the extent disclosure is otherwise required  
2 by law, a public agency shall not be required to disclose:

3 (1) Records the disclosure of which is specifically prohibited or  
4 restricted by federal law, state statute or rule of the Kansas supreme court  
5 or rule of the senate committee on confirmation oversight relating to  
6 information submitted to the committee pursuant to K.S.A. 2017 Supp. 75-  
7 4315d, and amendments thereto, or the disclosure of which is prohibited or  
8 restricted pursuant to specific authorization of federal law, state statute or  
9 rule of the Kansas supreme court or rule of the senate committee on  
10 confirmation oversight relating to information submitted to the committee  
11 pursuant to K.S.A. 2017 Supp. 75-4315d, and amendments thereto, to  
12 restrict or prohibit disclosure.

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

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

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

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

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

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

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

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

40 (10) Criminal investigation records, except as provided ~~herein in~~  
41 *subsection (h)*. ~~The district court, in an action brought pursuant to K.S.A.~~  
42 ~~45-222, and amendments thereto, may order disclosure of such records,~~  
43 ~~subject to such conditions as the court may impose, if the court finds that~~

1 disclosure:

2 (A) ~~Is in the public interest;~~

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

5 (C) ~~would not reveal the identity of any confidential source or~~  
6 ~~undercover agent;~~

7 (D) ~~would not reveal confidential investigative techniques or~~  
8 ~~procedures not known to the general public;~~

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

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

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

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

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

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

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

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

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

4 (A) The information—~~which~~ *that* the agency maintains on computer  
5 facilities; and

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

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

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

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

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

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

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

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

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

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

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

42 (23) Library patron and circulation records—~~which~~ *that* pertain to  
43 identifiable individuals.

- 1       (24) Records ~~which~~ *that* are compiled for census or research purposes  
2 and ~~which~~ *that* pertain to identifiable individuals.
- 3       (25) Records ~~which~~ *that* represent and constitute the work product of  
4 an attorney.
- 5       (26) Records of a utility or other public service pertaining to  
6 individually identifiable residential customers of the utility or service.
- 7       (27) Specifications for competitive bidding, until the specifications  
8 are officially approved by the public agency.
- 9       (28) Sealed bids and related documents, until a bid is accepted or all  
10 bids rejected.
- 11       (29) Correctional records pertaining to an identifiable inmate or  
12 release, except that:
  - 13       (A) The name; photograph and other identifying information;  
14 sentence data; parole eligibility date; custody or supervision level;  
15 disciplinary record; supervision violations; conditions of supervision,  
16 excluding requirements pertaining to mental health or substance abuse  
17 counseling; location of facility where incarcerated or location of parole  
18 office maintaining supervision and address of a releasee whose crime was  
19 committed after the effective date of this act shall be subject to disclosure  
20 to any person other than another inmate or releasee, except that the  
21 disclosure of the location of an inmate transferred to another state pursuant  
22 to the interstate corrections compact shall be at the discretion of the  
23 secretary of corrections;
  - 24       (B) the attorney general, law enforcement agencies, counsel for the  
25 inmate to whom the record pertains and any county or district attorney  
26 shall have access to correctional records to the extent otherwise permitted  
27 by law;
  - 28       (C) the information provided to the law enforcement agency pursuant  
29 to the sex offender registration act, K.S.A. 22-4901 et seq., and  
30 amendments thereto, shall be subject to disclosure to any person, except  
31 that the name, address, telephone number or any other information which  
32 specifically and individually identifies the victim of any offender required  
33 to register as provided by the Kansas offender registration act, K.S.A. 22-  
34 4901 et seq., and amendments thereto, shall not be disclosed; and
  - 35       (D) records of the department of corrections regarding the financial  
36 assets of an offender in the custody of the secretary of corrections shall be  
37 subject to disclosure to the victim, or such victim's family, of the crime for  
38 which the inmate is in custody as set forth in an order of restitution by the  
39 sentencing court.
- 40       (30) Public records containing information of a personal nature where  
41 the public disclosure thereof would constitute a clearly unwarranted  
42 invasion of personal privacy.
- 43       (31) Public records pertaining to prospective location of a business or

1 industry where no previous public disclosure has been made of the  
2 business' or industry's interest in locating in, relocating within or  
3 expanding within the state. This exception shall not include those records  
4 pertaining to application of agencies for permits or licenses necessary to  
5 do business or to expand business operations within this state, except as  
6 otherwise provided by law.

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

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

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

16 (35) Any report or record ~~which~~ that is made pursuant to K.S.A. 65-  
17 4922, 65-4923 or 65-4924, and amendments thereto, and ~~which~~ that is  
18 privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments  
19 thereto.

20 (36) Information ~~which~~ that would reveal the precise location of an  
21 archeological site.

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

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

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

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

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

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

40 (43) Market research, market plans, business plans and the terms and  
41 conditions of managed care or other third-party contracts, developed or  
42 entered into by the university of Kansas medical center in the operation  
43 and management of the university hospital ~~which~~ that the chancellor of the

1 university of Kansas or the chancellor's designee determines would give an  
2 unfair advantage to competitors of the university of Kansas medical center.

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

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

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

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

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

42 (49) An individual's email address, cell phone number and other  
43 contact information ~~which~~ *that* has been given to the public agency for the

1 purpose of public agency notifications or communications which are  
2 widely distributed to the public.

3 (50) Information provided by providers to the local collection point  
4 administrator or to the 911 coordinating council pursuant to the Kansas  
5 911 act, and amendments thereto, upon request of the party submitting  
6 such records.

7 (51) Records of a public agency on a public website ~~which~~ that are  
8 searchable by a keyword search and identify the home address or home  
9 ownership of a law enforcement officer as defined in K.S.A. 2017 Supp.  
10 21-5111, and amendments thereto, parole officer, probation officer, court  
11 services officer or community correctional services officer. Such  
12 individual officer shall file with the custodian of such record a request to  
13 have such officer's identifying information restricted from public access on  
14 such public website. Within 10 business days of receipt of such requests,  
15 the public agency shall restrict such officer's identifying information from  
16 such public access. Such restriction shall expire after five years and such  
17 officer may file with the custodian of such record a new request for  
18 restriction at any time.

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

36 (53) Records of a public agency that would disclose the name, home  
37 address, zip code, email address, phone number or cell phone number or  
38 other contact information for any person licensed to carry concealed  
39 handguns or of any person who enrolled in or completed any weapons  
40 training in order to be licensed or has made application for such license  
41 under the personal and family protection act, K.S.A. 2017 Supp. 75-7c01  
42 et seq., and amendments thereto, shall not be disclosed unless otherwise  
43 required by law.

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

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

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

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

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

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

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

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

14 (h) *(1) Except as provided in K.S.A. 2017 Supp. 45-254, and*  
15 *amendments thereto, a public agency shall not disclose criminal*  
16 *investigation records while such investigation is active. An investigation*  
17 *becomes inactive upon the occurrence of any of the following events:*

18 (A) *A decision by the law enforcement agency not to pursue the case;*

19 (B) *expiration of the time to bring a charge or file a complaint under*  
20 *the applicable statute of limitations, or 30 years after the commission of*  
21 *the offense, whichever comes earliest; or*

22 (C) *exhaustion of or expiration of all rights of appeal by a person*  
23 *convicted on the basis of the criminal investigation records.*

24 (2) *Criminal investigation records related to an inactive investigation*  
25 *shall be disclosed, unless disclosure:*

26 (A) *Would interfere with any prospective law enforcement action,*  
27 *criminal investigation or prosecution;*

28 (B) *reveal the identity of any confidential source or undercover*  
29 *agent;*

30 (C) *reveal confidential investigative techniques or procedures not*  
31 *known to the general public;*

32 (D) *endanger the life or physical safety of any person; or*

33 (E) *reveal the name, address, phone number or any other information*  
34 *that specifically and individually identifies the victim of any sexual offense*  
35 *in article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their*  
36 *repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, and*  
37 *amendments thereto.*

38 (3) *If a public record is discretionarily closed by a public agency*  
39 *pursuant to this subsection, the record custodian, upon request, shall*  
40 *provide a written citation to the specific provisions of subsection (h)(2)*  
41 *that necessitate closure of that public record.*

42 (4) *Except as provided in K.S.A. 2017 Supp. 45-254, and amendments*  
43 *thereto, any audio or video recording made and retained by law*

1 enforcement using a body camera or vehicle camera as defined by K.S.A.  
2 2017 Supp. 45-254, and amendments thereto, that is part of an inactive  
3 investigative file and that constitutes a clearly unwarranted invasion of  
4 personal privacy as defined in K.S.A. 45-517(b), and amendments thereto,  
5 shall not be disclosed, except that the existence of the recording shall be  
6 disclosed to any person requesting access to the inactive investigative file.

7 (5) The district court, in an action brought pursuant to K.S.A. 45-  
8 222, and amendments thereto, may order disclosure of any criminal  
9 investigation records, subject to such conditions as the court may impose,  
10 if the court finds that disclosure:

11 (A) Is in the public interest;

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

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

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

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

19 (F) would not reveal the name, address, phone number or any other  
20 information that specifically and individually identifies the victim of any  
21 sexual offense in article 35 of chapter 21 of the Kansas Statutes  
22 Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas  
23 Statutes Annotated, and amendments thereto.

24 Sec. 3. K.S.A. 2017 Supp. 45-254 is hereby amended to read as  
25 follows: 45-254. (a) Every audio or video recording made and retained by  
26 law enforcement using a body camera or a vehicle camera shall be  
27 considered a criminal investigation record as defined in K.S.A. 45-217,  
28 and amendments thereto. The provisions of this subsection shall expire on  
29 July 1, 2021, unless the legislature reviews and reenacts this provision  
30 pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2021.

31 (b) In addition to any disclosure authorized pursuant to the open  
32 records act, K.S.A. 45-215 et seq., and amendments thereto, a person  
33 described in subsection (c) may request to listen to an audio recording or  
34 to view a video recording made by a body camera or a vehicle camera. The  
35 law enforcement agency shall allow the person to listen to the requested  
36 audio recording or to view the requested video recording *within 24 hours*  
37 *after making the request*, and may charge a reasonable fee for such  
38 services provided by the law enforcement agency.

39 (c) Any of the following may make a request under subsection (b):

40 (1) A person who is a subject of the recording;

41 (2) a parent or legal guardian of a person under 18 years of age who  
42 is a subject of the recording;

43 (3) an attorney for a person described in subsection (c)(1) or (c)(2);

1 and

2 (4) an heir at law, an executor or an administrator of a decedent, or  
3 *an individual who has secured a written release from the next of kin of a*  
4 *decedent, when the decedent is a subject of the recording.*

5 (d) *A law enforcement agency shall disclose any audio or video*  
6 *recording made and retained by the agency using a body camera or a*  
7 *vehicle camera within five business days after a request is made by any*  
8 *person, if the recording depicts or describes:*

9 (1) *The discharge of a firearm by a law enforcement officer in the*  
10 *course of duty, other than the discharge of a firearm for training purposes,*  
11 *or the killing of an animal that is sick, injured or dangerous; or*

12 (2) *the use of force by a law enforcement officer that results in great*  
13 *bodily harm or death.*

14 (e) (1) *A law enforcement agency shall redact or obscure specific*  
15 *portions of any audio or video recording before disclosure that:*

16 (A) *Depicts the death of a person, a dead body, or clearly visible acts*  
17 *of severe violence or great bodily harm against a person, unless the death*  
18 *or act was caused by a law enforcement officer;*

19 (B) *depicts nudity or sexual conduct as defined in K.S.A. 2017 Supp.*  
20 *21-6402, and amendments thereto;*

21 (C) *reveals the identity of any confidential source or undercover*  
22 *agent;*

23 (D) *reveals confidential investigative techniques or procedures not*  
24 *known to the general public;*

25 (E) *endangers the life or physical safety of any person;*

26 (F) *reveals the name, address, phone number or any other*  
27 *information that specifically and individually identifies the victim of any*  
28 *sexual offense in article 35 of chapter 21 of the Kansas Statutes*  
29 *Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas*  
30 *Statutes Annotated, and amendments thereto;*

31 (G) *identifies a minor under the age of 16 or undermines the*  
32 *confidentiality requirements for juvenile records as provided in chapter 38*  
33 *of the Kansas Statutes Annotated, and amendments thereto;*

34 (H) *includes confidential medical information or personal*  
35 *information as defined in K.S.A. 2017 Supp. 50-7a01, and amendments*  
36 *thereto; or*

37 (I) *reveals the name or license plate number of a person not arrested,*  
38 *cited, charged or issued a written warning.*

39 (2) *This subsection shall not apply to requests made by a person*  
40 *described in subsection (c).*

41 (f) (1) *A law enforcement agency may redact or obscure specific*  
42 *portions of any audio or video recording before disclosure that reveals the*  
43 *identity of a law enforcement officer who is subject to an internal*

1 *investigation as a result of an event depicted in the recording, except as*  
2 *provided in subsection (f)(2).*

3 (2) (A) *A law enforcement agency shall not redact the identity of a*  
4 *law enforcement officer after the agency has concluded the investigation*  
5 *or rendered a decision as to final disciplinary action, and the records*  
6 *previously withheld, redacted or obscured under this section shall be made*  
7 *available for public inspection and copying.*

8 (B) *If such investigation lasts for longer than 270 days, video and*  
9 *audio recordings not disclosed, redacted or obscured under this section*  
10 *shall be made available for public inspection and copying.*

11 (g) *As used in this section:*

12 (1) "Body camera" means a device that is worn by a law enforcement  
13 officer that electronically records audio or video of such officer's activities.

14 (2) "Heir at law" means: (A) *The spouse of the decedent, if living; (B)*  
15 *if there is no living spouse of the decedent, an adult child of the decedent,*  
16 *if living; or (C) if there is no living spouse or adult child, a parent of the*  
17 *decedent, if living. It shall be the responsibility of the heir at law to show*  
18 *proof of the familial relationship.*

19 (3) "Vehicle camera" means a device that is attached to a law  
20 enforcement vehicle that electronically records audio or video of law  
21 enforcement officers' activities.

22 Sec. 4. K.S.A. 2017 Supp. 45-219, 45-221 and 45-254 are hereby  
23 repealed.

24 Sec. 5. This act shall take effect and be in force from and after its  
25 publication in the statute book.