AN ACT concerning police officer-involved deaths; requiring investigations; amending the open records act; amending K.S.A. 2019 Supp. 45-221 and repealing the existing section.

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

New Section 1. (a) As used in this section:

(1) "Law enforcement officer" means the same as in K.S.A. 74-5602, and amendments thereto.

(2) "Officer-involved death" means a death of an individual that results directly from an action or an omission of a law enforcement officer while the law enforcement officer is on duty or while the law enforcement officer is off duty but performing activities that are within the scope of such officer's law enforcement duties.

(b) Each law enforcement agency shall have a written policy regarding the investigation of officer-involved deaths that involve a law enforcement officer employed by the law enforcement agency.

(1) Each policy must require an investigation conducted by at least two investigators, one of whom is the lead investigator and neither of whom is employed by a law enforcement agency that employs a law enforcement officer involved in the officer-involved death.

(2) If the officer-involved death being investigated is traffic-related, the policy must require the investigation to use a crash reconstruction unit from a law enforcement agency that does not employ a law enforcement officer involved in the officer-involved death being investigated, except that a policy for a state law enforcement agency may allow an investigation involving a law enforcement officer employed by that state law enforcement agency to use a crash reconstruction unit from the same state law enforcement agency.

(3) Each policy may allow an internal investigation into the officer-involved death, if the internal investigation does not interfere with the investigation conducted under subsection (a).

(4) Compensation for participation in an investigation shall be determined in a manner consistent with mutual aid agreements.

(c) (1) The investigators conducting the investigation shall provide a complete report to the county or district attorney of the county in which the officer-involved death occurred.
If the county or district attorney determines that there is no basis to prosecute the law enforcement officer involved in the officer-involved death, the investigators conducting the investigation shall release the report with redactions of information otherwise protected from disclosure. No provision of the open records act, K.S.A. 45-215 et seq., and amendments thereto, shall be used to prevent the disclosure of any report required to be disclosed under this section.

Sec. 2. K.S.A. 2019 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 which 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 which pertain to identifiable patients.

4. Except as provided in section 1, and amendments thereto, 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 which 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 which 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 which that show only passage or failure and not specific scores.

(10) Criminal investigation records, except as provided herein and in section 1, and amendments thereto. 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 which that specifically and individually identifies the victim of any sexual offense 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 paragraphs (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 disclosure would interfere with a prospective administrative adjudication or civil litigation or reveal the identity of a confidential source or undercover agent.

(12) Records of emergency or security information or procedures of a public agency, or plans, drawings, specifications or related information for any building or facility which that is used for purposes requiring security measures in or around the building or facility or which 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 which is intended to give notice of an action, policy or determination relating to any regulatory, supervisory or enforcement responsibility of the public agency or which 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 which 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 which are prepared by a person other than an employee of a public agency or records which are the property of a private person.

(19) Well samples, logs or surveys which 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, which records 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 which 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, which
records 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 which 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—\textit{which that} pertain to identifiable individuals.
(24) Records—\textit{which that} are compiled for census or research purposes and which—\textit{that} pertain to identifiable individuals.
(25) Records—\textit{which 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—\textit{which 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 which that is made pursuant to K.S.A. 65-
4922, 65-4923 or 65-4924, and amendments thereto, and which that is
privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments
thereto.

(36) Information which that would reveal the precise location of an
archaeological 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 which 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, 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 which has been given to the public agency for the
purpose of public agency notifications or communications which 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, and amendments thereto, upon request of the party submitting
such records.

(51) Records of a public agency on a public website which 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. 2019 Supp.
21-5111, and amendments thereto, parole officer, probation officer, court
services officer or community correctional services officer. Such
individual officer shall file with the custodian of such record a request to
have such officer'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 officer's identifying information from
such public access. Such restriction shall expire after five years and such
officer may file with the custodian of such record a new request for
restriction at any time.

(52) Records of a public agency on a public website which are
searchable by a keyword search and identify the home address or home
ownership of 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, 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.

(53) 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.

(54) 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.

(55) 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.

(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 which 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" shall not
include a request to an employee of a public agency that a document be
prepared.

(d) If a public record contains material which 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 which 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 which 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 which 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 which 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. 2019 Supp. 45-221 is hereby repealed.

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