As Amended by House Committee

As Amended by Senate Committee
Session of 2015

SENATE BILL No. 206

By Committee on Federal and State Affairs

2-11

AN ACT concerning public agencies; relating to the state of Kansas and
local units of government; providing certain powers to the attorney
general for investigation of violations of the open records act and the
open meetings act; open government fund; amending K.S.A. 45-223,
45-228 and 75-4320a and K.S.A. 2014 Supp. 45-221, 45-222, 75-4320
and 75-4320b and repealing the existing sections.

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

New Section 1. (a) The attorney general may determine by a
preponderance of the evidence after an investigation that a public agency
has violated K.S.A. 45-215 et seq., and amendments thereto, and may, at
any time prior to the filing of an action pursuant to K.S.A. 45-222, and
amendments thereto, either enter into a consent order with the public
agency or issue a finding of violation to the public agency.

(1) If the attorney general enters into a consent order with the public
agency, the consent order:

(A) May contain admissions of fact and any or all of the following:
   (i) Require completion of training approved by the attorney general
   concerning the requirements of K.S.A. 45-215 et seq., and amendments
   thereto;
   (ii) impose a civil penalty as provided for in K.S.A. 45-223, and
   amendments thereto, in an amount not to exceed $250 for each violation;
   and
   (iii) set forth the public agency's agreement that it will comply with
   the requirements of the open records act, K.S.A. 45-215 et seq., and
   amendments thereto; and
   (B) shall bear the signature of the head of the public agency, of any
   officer found to have violated the provisions of K.S.A. 45-215 et seq., and
   amendments thereto, and of any other person required by the attorney
general. If the public agency is a governing body, all of the members of the
governing body shall sign the consent order.

(2) If the attorney general issues a finding of violation to the public
agency, the finding may contain findings of fact and conclusions of law
and require the public agency to do any or all of the following:
(A) Cease and desist from further violation;
(B) comply with the provisions of K.S.A. 45-215 et seq., and amendments thereto;
(C) complete training approved by the attorney general concerning the requirements of K.S.A. 45-215 et seq., and amendments thereto; and
(D) pay a civil penalty as provided for in K.S.A. 45-223, and amendments thereto, in an amount not to exceed $500 for each violation.
(b) The attorney general may require submission of proof that requirements of any consent order entered pursuant to subsection (a)(1) or any finding of violation issued pursuant to subsection (a)(2) have been satisfied.
(c) (1) The attorney general may apply to the district court to enforce a consent order pursuant to subsection (a)(1) or finding of violation pursuant to subsection (a)(2). Prior to applying to the district court, the attorney general shall make a demand to the public agency to comply with the consent order or finding of violation and afford reasonable opportunity for the public agency to cure the violation.
(2) An enforcement action under this section may be filed in the district court of the county where the consent order or finding of violation is issued or is effective. The district court of any county shall have jurisdiction to enforce any consent order or finding of violation.
(3) In any enforcement action under this section, the court on its own motion, or on the motion of either party, may view the records in controversy in camera before reaching a decision.
(4) If the district court finds the attorney general did not abuse the attorney general's discretion in entering into the consent order or issuing the finding of violation, the district court shall enter an order that:
(A) Enjoins the public agency to comply with the consent order or finding of violation;
(B) imposes a civil penalty as provided for in K.S.A. 45-223, and amendments thereto. The penalty shall be set by the court in an amount not less than the amount ordered by the attorney general, nor more than $500 for each violation;
(C) requires the public agency to pay the attorney general's reasonable costs in investigating and bringing an action to enforce the order, including reasonable attorney fees court costs and costs incurred in investigating the violation; and
(D) provides for any other remedy authorized by K.S.A. 45-222(a), and amendments thereto, that the court deems appropriate.
(5) In any enforcement action under this section, if the court finds that any of the provisions of K.S.A. 45-215 et seq., and amendments thereto, were violated, such court:
(A) Except as provided in subsection (c)(5)(B), may require the
public agency to pay the attorney general's reasonable attorney fees; and

(B) shall require the public agency to pay the attorney general's reasonable attorney fees, if the public agency's violation was not made in good faith and without a reasonable basis in fact or law.

d) Any finding of violation issued by the attorney general pursuant to subsection (a)(2) shall be served upon the public agency:

1) By certified mail, return receipt requested, to the last known place of business, residence or abode within or without this state; or

2) in the manner provided in the code of civil procedure as if a petition had been filed.

e) The attorney general shall maintain and make available for public inspection all consent orders entered pursuant to subsection (a)(1) and all findings of violation issued pursuant to subsection (a)(2).

f) This section shall be a part of and supplemental to the open records act.

New Sec. 2. (a) In lieu of bringing an action as provided in K.S.A. 45-222, and amendments thereto, the attorney general or a county or district attorney may resolve the matter by accepting a consent judgment with respect to any act or practice declared to be a violation of this act. Before any consent judgment entered into pursuant to this section shall be effective, such judgment must be approved by the district court and an entry made thereof in the manner required for making an entry of judgment. Once such approval is received, any breach of the conditions of the consent judgment shall be treated as a violation of a court order, and shall be subject to all the penalties provided by law therefor.

(b) A consent judgment may contain any remedy available to the district court, except it shall not include an award of reasonable expenses, investigation costs or attorney fees. A consent judgment may include a stipulation concerning the production of records requested pursuant to K.S.A. 45-215 et seq., and amendments thereto, subject to any permissible redactions as described in the consent judgment.

(c) This section shall be a part of and supplemental to the open records act.

New Sec. 3. (a) Any complaint submitted to the attorney general shall be on a form prescribed by the attorney general setting forth the facts that the complaining party believes show that K.S.A. 45-215 et seq., and amendments thereto, have been violated. The person submitting the complaint must attest to the facts under penalty of perjury pursuant to K.S.A. 53-601, and amendments thereto.

(b) This section shall be a part of and supplemental to the open records act.

New Sec. 4. (a) The attorney general may determine by a
preponderance of the evidence after an investigation that a public body or agency has violated K.S.A. 75-4317 et seq., and amendments thereto, and may, at any time prior to the filing of an action pursuant to K.S.A. 75-4320a, and amendments thereto, either enter into a consent order with the public body or agency or issue a finding of violation to the public body or agency.

(1) If the attorney general enters into a consent order with the public body or agency, the consent order:

(A) May contain admissions of fact and any or all of the following:
   (i) Require completion of training approved by the attorney general concerning the requirements of K.S.A. 75-4317 et seq., and amendments thereto;
   (ii) impose a civil penalty as provided for in K.S.A. 75-4320, and amendments thereto, in an amount not to exceed $250 for each violation; and
   (iii) set forth the public body or agency's agreement that it will comply with the requirements of the open meetings act, K.S.A. 75-4317 et seq., and amendments thereto; and

(B) shall bear the signature of the head of the public body or agency, of any officer found to have violated the provisions of K.S.A. 75-4317 et seq., and amendments thereto, and of any other person required by the attorney general. If the public agency is a governing body, all of the members of the governing body shall sign the consent order.

(2) If the attorney general issues a finding of violation to the public body or agency, the finding may contain findings of fact and conclusions of law and require the public body or agency to do any or all of the following:

(A) Cease and desist from further violation;
(B) comply with the provisions of K.S.A. 75-4317 et seq., and amendments thereto;
(C) complete training approved by the attorney general concerning the requirements of K.S.A. 75-4317 et seq., and amendments thereto; and
(D) pay a civil penalty as provided for in K.S.A. 75-4320, and amendments thereto, in an amount not to exceed $500 for each violation.

(b) The attorney general may require submission of proof that requirements of any consent order entered pursuant to subsection (a)(1) or any finding of violation issued pursuant to subsection (a)(2) have been satisfied.

(c) (1) The attorney general may apply to the district court to enforce a consent order pursuant to subsection (a)(1) or finding of violation pursuant to subsection (a)(2). Prior to applying to the district court, the attorney general shall make a demand to the public body or agency to comply with the consent order or finding of violation and afford
reasonable opportunity for the public body or agency to cure the violation.

(2) An enforcement action under this section may be filed in the district court of the county where the consent order or finding of violation is issued or is effective. The district court of any county shall have jurisdiction to enforce any consent order or finding of violation.

(3) If the district court finds the attorney general did not abuse the attorney general's discretion in entering into the consent order or issuing the finding of violation, the district court shall enter an order that:

(A) Enjoins the public body or agency to comply with the consent order or finding of violation;

(B) imposes a civil penalty as provided for in K.S.A. 75-4320, and amendments thereto. The penalty shall be set by the court in an amount not less than the amount ordered by the attorney general, nor more than $500 for each violation;

(C) requires the public body or agency to pay the attorney general's reasonable costs in investigating and bringing an action to enforce the order, including reasonable attorney fees, court costs and costs incurred in investigating the violation; and

(D) provides for any other remedy authorized by K.S.A. 75-4320a(a), and amendments thereto, that the court deems appropriate.

(4) In any enforcement action under this section, if the court finds that any of the provisions of K.S.A. 75-4317 et seq., and amendments thereto, were violated, such court:

(A) Except as provided in subsection (c)(4)(B), may require the public body or agency to pay the attorney general's reasonable attorney fees; and

(B) shall require the public body or agency to pay the attorney general's reasonable attorney fees, if the public body or agency's violation was not made in good faith and without a reasonable basis in fact or law.

(d) Any finding of violation issued by the attorney general pursuant to subsection (a)(2) shall be served upon the public body or agency:

(1) By certified mail, return receipt requested, to the last known place of business, residence or abode within or without this state; or

(2) in the manner provided in the code of civil procedure as if a petition had been filed.

(e) The attorney general shall maintain and make available for public inspection all consent orders entered pursuant to subsection (a)(1) and all findings of violation issued pursuant to subsection (a)(2).

(f) This section shall be a part of and supplemental to the open meetings act.

New Sec. 5. (a) In lieu of bringing an action as provided in K.S.A. 75-4320a, and amendments thereto, the attorney general or a county or
district attorney may resolve the matter by accepting a consent judgment with respect to any act or practice declared to be a violation of this act. Before any consent judgment entered into pursuant to this section shall be effective, such judgment must be approved by the district court and an entry made thereof in the manner required for making an entry of judgment. Once such approval is received, any breach of the conditions of the consent judgment shall be treated as a violation of a court order, and shall be subject to all the penalties provided by law therefor.

(b) A consent judgment may contain any remedy available to the district court, except it shall not include an award of reasonable expenses, investigation costs or attorney fees.

(c) This section shall be a part of and supplemental to the open meetings act.

New Sec. 6. (a) Any complaint submitted to the attorney general shall be on a form prescribed by the attorney general setting forth the facts that the complaining party believes show that K.S.A. 75-4317 et seq., and amendments thereto, have been violated. The person submitting the complaint must attest to the facts under penalty of perjury pursuant to K.S.A. 53-601, and amendments thereto.

(b) This section shall be a part of and supplemental to the open meetings act.

New Sec. 7. (a) There is hereby created in the state treasury the attorney general's open government fund. Moneys in the attorney general's open government fund shall be used by the attorney general to carry out the provisions and purposes of the open records act, K.S.A. 45-215 et seq., and amendments thereto, and the open meetings act, K.S.A. 75-4317 et seq., and amendments thereto. All expenditures from the attorney general's open government fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or a person designated by the attorney general.

(b) All civil penalties, expenses, costs and attorney fees awarded in an action brought by the attorney general pursuant to the open records act, K.S.A. 45-215 et seq., and amendments thereto, or the open meetings act, K.S.A. 75-4317 et seq., and amendments thereto, or pursuant to a consent order or finding of violation of the attorney general as provided in section 1 or section 4, and amendments thereto, shall be credited to the attorney general's open government fund.

New Sec. 8. (a) Subject to the availability of appropriations, the attorney general shall provide and coordinate training throughout the state to promote knowledge of, and compliance with, the open records act, K.S.A. 45-215 et seq., and amendments thereto, and the open meetings act, K.S.A. 75-4317 et seq., and amendments thereto. The attorney general
may consult and coordinate with any appropriate organization to provide
training.
(b) The attorney general may establish a program of computerized
training to promote knowledge of, and compliance with, the open records
act, K.S.A. 45-215 et seq., and amendments thereto, and the open meetings
act, K.S.A. 75-4317, and amendments thereto, and to make training
available throughout the state.
(c) The attorney general may approve training programs that satisfy
training requirements imposed by the district court or by any order or
judgment pursuant to the open records act, K.S.A. 45-215 et seq., and
amendments thereto, and the open meetings act, K.S.A. 75-4317 et seq.,
and amendments thereto.

New Sec. 9. The attorney general may adopt rules and regulations to
implement and administer the provisions of the open records act, K.S.A.
45-215 et seq., and amendments thereto, and the open meetings act, K.S.A.
75-4317 et seq., and amendments thereto.
Sec. 10. K.S.A. 2014 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.
2014 Supp. 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. 2014
Supp. 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 drug
dependency treatment records which 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 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 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 which 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 is used for purposes
requiring security measures in or around the building or facility or
which 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 which pertain to identifiable individuals.

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

(25) Records which 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 which 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 is made pursuant to K.S.A. 65-
4922, 65-4923 or 65-4924, and amendments thereto, and which is
privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments
thereto.

(36) Information which 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
subsection (b) of K.S.A. 40-409(b), and amendments thereto.

(40) Disclosure reports filed with the commissioner of insurance
under subsection (a) of 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 subsection (h)(1) of 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. 2014 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 district attorney or county attorney or an assistant district attorney or assistant county attorney 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. 2014 Supp. 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 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 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 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 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. 11. K.S.A. 2014 Supp. 45-222 is hereby amended to read as follows: 45-222. (a) The district court of any county in which public records are located shall have jurisdiction to enforce the purposes of this act with respect to such records, by injunction, mandamus, declaratory judgment or other appropriate order, in an action brought by any person, the attorney general or a county or district attorney. The district court may require a defendant to complete training approved by the attorney general concerning the requirements of the open records act.

(b) In any action hereunder, the court shall determine the matter de novo. The court on its own motion, or on motion of either party, may view the records in controversy in camera before reaching a decision.

(c) In any action hereunder, or under section 1, and amendments thereto, the burden of proof shall be on the public agency to sustain its action.

(d) In any action hereunder, the court shall award costs and a reasonable sum as an attorney's fee for services rendered in such action, including proceedings on appeal, to be recovered and collected as part of the costs to the plaintiff if the court finds that the agency's denial of access to the public record was not in good faith and without a reasonable basis in fact or law. The award shall be assessed against the public agency that the court determines to be responsible for the violation.

(e) In any action hereunder in which the defendant is the prevailing party, the court shall award to the defendant costs and a reasonable sum as an attorney's fee for services rendered in such action, including proceedings on appeal, to be recovered and collected as part of the costs if the court finds that the plaintiff maintained the action not in good faith and without a reasonable basis in fact or law.

(f) In any action hereunder brought by the attorney general or a county or district attorney, if the court finds that any provisions were violated, the court: (1) May award the attorney general's or the county or district attorney's reasonable expenses, investigation costs and attorney fees; and (2) shall award the same if the court determines that the violation was not in good faith and without a reasonable basis in fact or law.

(g) Except as otherwise provided by law, proceedings arising under this section shall be assigned for hearing and trial at the earliest practicable date.
(4)(h) The provisions of subsections (c) and (d) concerning the
awarding of costs and attorney fees for services rendered during an appeal
shall apply only to actions which are based on causes of action accruing on
or after July 1, 2004.

Sec. 11. K.S.A. 45-223 is hereby amended to read as follows: 45-
223. (a) Any public agency subject to this act that knowingly violates any
of the provisions of this act or that intentionally fails to furnish
information as required by this act shall be liable for the payment of a civil
penalty in an action brought by the attorney general or a county or district
attorney, in a sum set by the court of not to exceed $500 for each violation.

(b) Any civil penalty sued for and recovered hereunder by the
attorney general shall be paid into the state general attorney general's
open government fund. Any civil penalty sued for and recovered hereunder
by a county or district attorney shall be paid into the general fund of the
county in which the proceedings were instigated.

Sec. 12. K.S.A. 45-228 is hereby amended to read as follows: 45-
228. (a) In investigating alleged violations of the Kansas open records act,
the attorney general or county or district attorney may:

(1) Subpoena witnesses, evidence, records, documents or other
material;

(2) take testimony under oath;

(3) examine or cause to be examined any records or other
documentary material of whatever nature relevant to such alleged
violations;

(4) require attendance during such examination of documentary
material and take testimony under oath or acknowledgment in respect of
any such documentary material; and

(5) serve interrogatories; and

(6) administer oaths and affirmations.

(b) If a public agency claims in writing that any records or
documents, or any portion thereof, obtained by the attorney general or a
county or district attorney pursuant to subsection (a) are exempt from
disclosure for any reason, the attorney general or a county or district
attorney shall not further disclose that record or document, nor the
contents thereof, unless ordered to do so by a district court enforcing the
open records act in connection with such record or document. Such
records and documents in the possession of the attorney general or a
county or district attorney shall not be subject to a request for inspection
and copying under the open records act and shall not be subject to
discovery, subpoena, or other process.

(c) Service by the attorney general or a county or district attorney of
any interrogatories or subpoena upon any person, shall be made:

(1) By certified mail, return receipt requested, to the last known place
of business, residence or abode within or without this state; or

(2) in the manner provided in the code of civil procedure as if a petition had been filed.

(d) If any person willfully fails or refuses to file any response to a request for information, records or other materials required by this section, respond to interrogatories or obey any subpoena issued by the attorney general or a county or district attorney, the attorney general or a county or district attorney may, after notice, apply to the district court of the county where the request, interrogatories or subpoena was issued, or of any other county where venue is proper, and after a hearing thereon the district court may:

(1) Issue an order requiring a response to the request for information, records or other materials, a response to the interrogatories or compliance with the subpoena; or

(2) grant such other relief as may be required, until the person provides the requested response for information, records or other materials, responds to the interrogatories or obeys the subpoena.

Sec. 13. K.S.A. 2014 Supp. 75-4320 is hereby amended to read as follows: 75-4320. (a) Any member of a public body or agency subject to this act who knowingly violates any of the provisions of this act or who intentionally fails to furnish information as required by subsection (b) of K.S.A. 75-4318(b), and amendments thereto, shall be liable for the payment of a civil penalty in an action brought by the attorney general or county or district attorney, in a sum set by the court of not to exceed $500 for each violation. In addition, any binding action which is taken at a meeting not in substantial compliance with the provisions of this act shall be voidable in any action brought by the attorney general or county or district attorney in the district court of the county in which the meeting was held within 21 days of the meeting, and the court shall have jurisdiction to issue injunctions or writs of mandamus to enforce the provisions of this act.

(b) Civil penalties sued for and recovered hereunder by the attorney general shall be paid into the state general attorney general's open government fund. Civil penalties sued for and recovered hereunder by a county or district attorney shall be paid into the general fund of the county where the proceedings were instigated.

(c) No fine shall be imposed pursuant to subsection (a) for violations of subsection (f) of K.S.A. 75-4318(f), and amendments thereto, which occur prior to July 1, 2009.

Sec. 14. K.S.A. 75-4320a is hereby amended to read as follows: 75-4320a. (a) The district court of any county in which a meeting is held shall have jurisdiction to enforce the purposes of K.S.A. 75-4318 and 75-4319, and amendments thereto, with respect to such meeting, by
injunction, mandamus, declaratory judgment or other appropriate order, on
application of any person. The district court may require a defendant to
complete training approved by the attorney general concerning the
requirements of the open meetings act.

(b) In any action hereunder or under section 4, and amendments
thereto, the burden of proof shall be on the public body or agency to
sustain its action.

(c) In any action hereunder, the court may award court costs to the
person seeking to enforce the provisions of K.S.A. 75-4318 or 75-4319,
and amendments thereto, if the court finds that the provisions of those
statutes were violated. The award shall be assessed against the public
agency or body or agency responsible for the violation.

(d) In any action hereunder in which the defendant is the prevailing
party, the court may award to the defendant court costs if the court finds
that the plaintiff maintained the action frivolously, not in good faith or
without a reasonable basis in fact or law.

(e) In any action hereunder brought by the attorney general or a
county or district attorney, if the court finds that any provisions of K.S.A.
75-4318 or 75-4319, and amendments thereto, were violated, the court:
(1) May award the attorney general's or the county or district attorney's
reasonable expenses, investigation costs and attorney fees; and (2) shall
award the same if the court determines that the violation was not in good
faith and without a reasonable basis in fact or law.

(f) Except as otherwise provided by law, proceedings arising under
this section shall take precedence over all other cases and shall be assigned
for hearing and trial at the earliest practicable date.

(g) As used in this section, "meeting" has the meaning provided by
K.S.A. 75-4317a, and amendments thereto.

K.S.A. 2014 Supp. 75-4320b is hereby amended to read
as follows: 75-4320b. (a) In investigating alleged violations of the Kansas
open meetings act, the attorney general or county or district attorney may:
(1) Subpoena witnesses, evidence, records, documents or other
material;
(2) take testimony under oath;
(3) examine or cause to be examined any records or other
documentary material of whatever nature relevant to such alleged
violations;
(4) require attendance during such examination of documentary
material and take testimony under oath or acknowledgment in respect of
any such documentary material; and
(5) serve interrogatories; and
(6) administer oaths and affirmations.

(b) Service by the attorney general or a county or district attorney of
any interrogatories or subpoena upon any person, shall be made:
   (1) By certified mail, return receipt requested, to the last known place
   of business, residence or abode within or without this state; or
   (2) in the manner provided in the code of civil procedure as if a
   petition had been filed.
   (c) If any person willfully fails or refuses to file any response to a
   request for information, records or other materials required by this
   section, respond to interrogatories or obey any subpoena issued by the
   attorney general or a county or district attorney, the attorney general or a
   county or district attorney may, after notice, apply to the district court of
   the county where the request, interrogatories or subpoena was issued, or
   of any other county where venue is proper, and after a hearing thereon the
   district court may:
      (1) Issue an order requiring a response to the request for
      information, records or other materials, a response to interrogatories or
      compliance with the subpoena; or
      (2) grant such other relief as may be required, until the person
      provides the requested response for information, records or other
      materials, responds to the interrogatories or obeys the subpoena.
Sec. 16. 17. K.S.A. 45-223, 45-228 and 75-4320a and K.S.A. 2014
Supp. 45-221, 45-222, 75-4320 and 75-4320b are hereby repealed.
Sec. 17. 18. This act shall take effect and be in force from and after
its publication in the statute book.