



STATE OF KANSAS  
OFFICE OF THE ATTORNEY GENERAL

DEREK SCHMIDT  
ATTORNEY GENERAL

MEMORIAL HALL  
120 SW 10TH AVE., 2ND FLOOR  
TOPEKA, KS 66612-1597  
(785) 296-2215 • FAX (785) 296-6296  
[WWW.AG.KS.GOV](http://WWW.AG.KS.GOV)

**Neutral Testimony on Senate Bill 70**  
**Open meetings; justifications for closed or executive meetings**

**Presented to the Senate Committee on Federal and State Affairs**  
**By Assistant Attorney General Melissa Johnson**  
**Chair, State Child Death Review Board**

**February 2, 2017**

Chairman LaTurner and Members of the Committee:

The bill before you today concerns the Kansas Open Meetings Act, specifically adding descriptors to the justifications that a public body may use to enter an executive session.

While our office takes no position on the bill, as chairman of the State Child Death Review Board, I wanted to bring to your attention the proposed change to K.S.A. 2016 Supp.75-4319(b)(9), which is the justification the Board uses to enter executive sessions to discuss child death cases it is reviewing. K.S.A. 22a-243(j) requires “[i]nformation acquired, by and records of” the Board remain confidential, and requires that if any committee of the Legislature is receiving or discussing information from the Board, that the committee meet in executive session.

As it is currently written, the descriptor added to K.S.A. 2016 Supp.75-4319(b)(9) would limit the Board to discussing “matters relating to district coroners.” The information discussed by the Board is much broader than that, and could include police reports, medical records and other information relating to the death of a child. If these records were required to be discussed in open sessions, these records would then become subject to the Kansas Open Records Act.

We believe this change in the language of K.S.A. 2016 Supp.75-4319(b)(9) inadvertently narrows the scope of information the Board may discuss in executive session. Therefore, we would ask that if the committee does consider this bill, it adopt the attached amendment to maintain the current scope of K.S.A. 2016 Supp.75-4319(b)(9).

Thank you for your consideration.

1 (7) *to discuss matters relating to parimutuel racing* permitted to be  
 2 discussed in a closed or executive meeting pursuant to K.S.A. 74-8804,  
 3 and amendments thereto;

4 (8) *to discuss matters relating to the care of children* permitted to be  
 5 discussed in a closed or executive meeting pursuant to K.S.A. 2016 Supp.  
 6 38-2212(d)(1), ~~and amendments thereto,~~ or K.S.A. 38-2213(e), and  
 7 amendments thereto;

8 (9) *to discuss matters relating to ~~district coroners~~* permitted to be  
 9 discussed in a closed or executive meeting pursuant to K.S.A. 22a-243(j),  
 10 and amendments thereto;

11 ~~(10) matters permitted to be discussed in a closed or executive~~  
 12 ~~meeting pursuant to K.S.A. 44-596(e), and amendments thereto;~~

13 ~~(11)~~ *to discuss matters relating to patients and providers* permitted to  
 14 be discussed in a closed or executive meeting pursuant to K.S.A. 39-  
 15 7,119(g), and amendments thereto;

16 ~~(12)~~ *(11) to discuss matters* required to be discussed in a closed or  
 17 executive meeting pursuant to a tribal-state gaming compact;

18 ~~(13)~~ *(12) to discuss matters* relating to security measures, if the  
 19 discussion of such matters at an open meeting would jeopardize such  
 20 security measures, that protect: (A) Systems, facilities or equipment used  
 21 in the production, transmission or distribution of energy, water or  
 22 communications services; (B) transportation and sewer or wastewater  
 23 treatment systems, facilities or equipment; (C) a public body or agency,  
 24 public building or facility or the information system of a public body or  
 25 agency; or (D) private property or persons, if the matter is submitted to the  
 26 public body or agency for purposes of this paragraph. For purposes of this  
 27 paragraph, security means measures that protect against criminal acts  
 28 intended to intimidate or coerce the civilian population, influence  
 29 government policy by intimidation or coercion or to affect the operation of  
 30 government by disruption of public services, mass destruction,  
 31 assassination or kidnapping. Security measures include, but are not limited to,  
 32 intelligence information, tactical plans, resource deployment and  
 33 vulnerability assessments;

34 ~~(14)~~ *(13) to discuss matters relating to maternity centers and child*  
 35 *care facilities* permitted to be discussed in a closed or executive meeting  
 36 pursuant to K.S.A. 65-525(~~f~~) (d), and amendments thereto; *and*

37 ~~(15)~~ *(14) to discuss matters relating to the office of inspector general*  
 38 permitted to be discussed in a closed or executive meeting pursuant to  
 39 K.S.A. 2015 Supp. 75-7427, and amendments thereto; ~~and~~

40 ~~(16) matters permitted to be discussed in a closed or executive~~  
 41 ~~meeting pursuant to K.S.A. 2015 Supp. 46-3801, and amendments thereto.~~

42 (c) No binding action shall be taken during closed or executive  
 43 recesses, and such recesses shall not be used as a subterfuge to defeat the

the investigation of  
 child deaths