

Public Records; Open Records—Law Enforcement Recordings; Definitions; Exceptions; Charitable Gaming Information; Sub. for SB 22

Sub. for SB 22 creates and amends law relating to public records and the Kansas Open Records Act (KORA).

Law Enforcement Recordings From Body Cameras and Vehicle Cameras

The bill creates new law stating every audio or video recording made and retained by law enforcement using a body camera or a vehicle camera shall be considered a “criminal investigation record,” as defined in KORA, thereby bringing such recordings within the exception from KORA for criminal investigation records, as well as under the public interest disclosure provision for such records. This new provision shall expire on July 1, 2021, unless reviewed and reenacted prior to that date.

In addition to the existing disclosures under KORA applicable to such recordings, the bill allows certain persons to request to listen to an audio recording or to view a video recording made by a body camera or vehicle camera, and the law enforcement agency shall be required to allow such listening or viewing subject to a reasonable fee. The persons who may make such a request include the subject of the recording; a parent or legal guardian of a person under 18 years of age who is a subject of the recording; an attorney for any of the previous persons listed; and an heir-at-law, an executor, or an administrator of a decedent who is a subject of the recording.

The bill defines “body camera” and “vehicle camera.” The bill amends the definition of “criminal investigation records” in KORA to accommodate the new law.

KORA Definitions

The bill amends the definition of “public record” to clarify the specified recorded information falls under the definition regardless of the location of the information. The bill also adds to this definition any recorded information that is made, maintained, kept by, or in the possession of any officer or employee of a public agency pursuant to the officer’s or employee’s official duties, and is related to the functions, activities, programs, or operations of any public agency.

The bill specifies the definition of “private person” used in defining records that are not public shall not include an officer or employee of a public agency who is acting pursuant to the officer’s or employee’s official duties.

The bill also removes “officer” from the definition of “public agency” and will no longer exempt from this definition officers or employees of the State or localities who have their offices open to the public fewer than 35 hours a week.

The bill makes additional technical and non-substantive structural changes.

Kansas Open Records Act Exceptions Review

The bill continues in existence until July 1, 2021, the following exceptions to KORA:

- KSA 2015 Supp. 40-955, concerning insurance rate filings;
- KSA 2015 Supp. 45-221(a)(10)(F), concerning victims of sexual offenses;
- KSA 2015 Supp. 45-221(a)(50), concerning information provided to the 911 Coordinating Council;
- KSA 2015 Supp. 65-4a05, concerning individual identification present in documents related to licensing of abortion clinics;
- KSA 2015 Supp. 65-445(g), concerning child sexual abuse reports;
- KSA 2015 Supp. 9-513c, concerning licensing persons engaged in money transmission;
- KSA 2015 Supp. 12-5374, concerning emergency communications services;
- KSA 2015 Supp. 16-335, concerning cemetery corporations investigations;
- KSA 2015 Supp. 17-1312e, concerning investigations of cemetery corporations;
- KSA 2015 Supp. 25-2309, concerning voter registration documents;
- KSA 2015 Supp. 40-2,118, concerning fraudulent insurance acts;
- KSA 2015 Supp. 40-2,118a, concerning fraudulent insurance acts;
- KSA 2015 Supp. 40-4913, concerning termination of certain business relationships;
- KSA 2015 Supp. 75-5664, concerning the Advisory Committee on Trauma;
- KSA 2015 Supp. 75-5665, concerning the Regional Trauma Council;
- KSA 2015 Supp. 12-5611, concerning the Topeka/Shawnee County Riverfront Authority;
- KSA 2015 Supp. 22-4906, concerning criminal offender registration;
- KSA 2015 Supp. 22-4909, concerning criminal offender registration;

- KSA 2015 Supp. 38-2310, concerning records concerning certain juveniles;
- KSA 2015 Supp. 38-2311, concerning juvenile treatment records;
- KSA 2015 Supp. 38-2326, concerning juvenile offender information systems;
- KSA 2015 Supp. 44-1132, concerning discrimination in employment;
- KSA 2015 Supp. 60-3333, concerning environmental audit reports;
- KSA 2015 Supp. 65-6154, concerning emergency medical services reports;
- KSA 2015 Supp. 71-218, concerning community colleges and employee evaluation documents;
- KSA 2015 Supp. 75-457, concerning substitute mailing addresses;
- KSA 2015 Supp. 75-712c, concerning reports of missing persons;
- KSA 2015 Supp. 75-723, concerning the Abuse, Neglect, and Exploitation of Persons Unit in the Office of the Attorney General; and
- KSA 2015 Supp. 75-7c06, concerning concealed firearm records.

The bill removes an exception concerning audits of voice over internet protocol (VoIP) providers, as the underlying statute, KSA 12-5358, was repealed during the 2011 Session.

Release of Charitable Gaming Information

The bill also amends a statute allowing the Secretary of Revenue or the Secretary's designee to release or publish certain charitable gaming information obtained in bingo licensee and registration applications and renewals pursuant to the Bingo Act. The applications from which such information may be drawn are expanded to include any charitable gaming application, and the reference to the Bingo Act is updated to reference the Kansas Charitable Gaming Act.