

**SENATE BILL No. 306**

By Senator Baumgardner

5-14

1 AN ACT concerning the open records act; relating to definitions; public  
2 agency and public record; amending K.S.A. 2014 Supp. 45-217 and  
3 repealing the existing section.

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2014 Supp. 45-217 is hereby amended to read as  
7 follows: 45-217. As used in the open records act, unless the context  
8 otherwise requires:

9 (a) "Business day" means any day other than a Saturday, Sunday or  
10 day designated as a holiday by the congress of the United States, by the  
11 legislature or governor of this state or by the respective political  
12 subdivision of this state.

13 (b) "Clearly unwarranted invasion of personal privacy" means  
14 revealing information that would be highly offensive to a reasonable  
15 person, including information that may pose a risk to a person or property  
16 and is not of legitimate concern to the public.

17 (c) "Criminal investigation records" means records of an  
18 investigatory agency or criminal justice agency as defined by K.S.A. 22-  
19 4701, and amendments thereto, compiled in the process of preventing,  
20 detecting or investigating violations of criminal law, but does not include  
21 police blotter entries, court records, rosters of inmates of jails or other  
22 correctional or detention facilities or records pertaining to violations of  
23 any traffic law other than vehicular homicide as defined by K.S.A. 21-  
24 3405, prior to its repeal, or K.S.A. 2014 Supp. 21-5406, and amendments  
25 thereto.

26 (d) "Custodian" means the official custodian or any person designated  
27 by the official custodian to carry out the duties of custodian of this act.

28 (e) "Official custodian" means any officer or employee of a public  
29 agency who is responsible for the maintenance of public records,  
30 regardless of whether such records are in the officer's or employee's actual  
31 personal custody and control.

32 (f) (1) "Public agency" means the state or any political or taxing  
33 subdivision of the state or any office, ~~officer~~, agency or instrumentality  
34 thereof, or any other entity receiving or expending and supported in whole  
35 or in part by the public funds appropriated by the state or by public funds  
36 of any political or taxing subdivision of the state.

1 (2) "Public agency" shall not include:

2 ~~(A) any entity solely by reason of payment from public funds for~~  
3 ~~property, goods or services of such entity; (B) any municipal judge, judge~~  
4 ~~of the district court, judge of the court of appeals or justice of the supreme~~  
5 ~~court; or (C) any officer or employee of the state or political or taxing~~  
6 ~~subdivision of the state if the state or political or taxing subdivision does~~  
7 ~~not provide the officer or employee with an office which is open to the~~  
8 ~~public at least 35 hours a week.~~

9 (g) (1) "Public record" means any recorded information, regardless of  
10 form ~~or~~, characteristics *or location*, which is made, maintained or kept by  
11 or is in the possession of:

12 (A) Any public agency including, but not limited to, an agreement in  
13 settlement of litigation involving the Kansas public employees retirement  
14 system and the investment of moneys of the fund; *or*

15 (B) *any officer or employee of a public agency pursuant to the*  
16 *officer's or employee's official duties and which is related to the functions,*  
17 *activities, programs or operations of the public agency.*

18 (2) "Public record" shall not include:

19 (A) Records which are owned by a private person or entity and are  
20 not related to functions, activities, programs or operations funded by  
21 public funds ~~or~~;

22 (B) records which are made, maintained or kept by an individual who  
23 is a member of the legislature or of the governing body of any political or  
24 taxing subdivision of the state.;

25 (C) *records of any municipal judge, judge of the district court, judge*  
26 *of the court of appeals or justice of the supreme court;*

27 (D) *records of any officer or employee of the state or political or*  
28 *taxing subdivision of the state if the state or political or taxing subdivision*  
29 *does not provide the officer or employee with an office which is open to*  
30 *the public at least 35 hours a week; or*

31 ~~(3)(E) "Public record" shall not include records of employers related~~  
32 ~~to the employer's individually identifiable contributions made on behalf of~~  
33 ~~employees for workers compensation, social security, unemployment~~  
34 ~~insurance or retirement. The provisions of this subsection shall not apply~~  
35 ~~to records of employers of lump-sum payments for contributions as~~  
36 ~~described in this subsection paid for any group, division or section of an~~  
37 ~~agency.~~

38 (h) "Undercover agent" means an employee of a public agency  
39 responsible for criminal law enforcement who is engaged in the detection  
40 or investigation of violations of criminal law in a capacity where such  
41 employee's identity or employment by the public agency is secret.

42 Sec. 2. K.S.A. 2014 Supp. 45-217 is hereby repealed.

43 Sec. 3. This act shall take effect and be in force from and after its

- 1 publication in the statute book.